



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.10553 OF 2022 WITH
CIVIL APPLICATION NO.9419 OF 2025

- 1) Sardar Paramjot Singh s/o Arjun
Singh Chahel, Age 67 years,
Occu. Legal Practitioner (Retired Judge &
Former Ex-Member/ Secretary of
The Nanded Gurudwara Board),
R/o 'Vasundhara', CHS, Sector-8,
Flat No.101, Kharghar,
Navi Mumbai – 410 210
- 2) S. Bhupindar Singh Ji Manhas
Ex-President, Gurudwara Sachkhand
Board Takhat Sachkhand Sri Huzur
Abchalnagar Sahib Nanded,
Age 73 years, Occu. Business,
R/o 10-A, Vinay Hawaya Complex,
159/A C.S.T. Road, Kalin,
Sabtakruz (E), Mumbai – 8
**(Petitioner No.2 deleted as per Court's
order dated 14/3/2024)**
- 3) S. Gurinder Singh Ji Bawa,
Ex-Vice President – Gurudwara
Sachkhand Board Takhat
Sachkhand Sri Hazur Abchalnagar
Sahib, Nanded, Age 75 years,
Occu. Business, R/o Guru Angad Niwas,
Bungalow No.22Rd. B-1, Housing Society
Vittal Nagar Co-operative J.N.P.D. Scheme,
Mumbai – 98

- 4) S. Ravinder Singh Ji Aasa Singh Ji
Bungai, Ex-Secretary- Gurudwara
Sachkhand Board Takhat Sachkhand
Sri Hazur Abchnagar Sahib, Nanded
Age 52 years, Occu. Business,
R/o Aasha-Jeet Niwas, Opp. Kalidhar
English School, Shahidpura,
Nanded (M.S.)
- 5) S. Manpreet Singhji Gobind Singh Ji
Kunjniwale, Ex-Member – Gurudwara
Sachkhand Board Takhat Sachkhand
Sri Hazur Abchnagar Sahib, Nanded
Age 35 years, Occ. Business,
R/o Gurudwara Gate No.2, Near Gurudwara
Mahakal Saheb , Nanded 431601
- 6) S. Gurmeet Singh Mahajan,
Ex-Member- Gurudwara Sachkhand
Board Takhat Sachkhand Sri Hazur
Abchnagar Sahib Nanded,
Age 38 years, Occ. Business,
R/o Hari Niwas, H.No.3-6-180,
Badpura, Nanded 431601
- 7) S. Gobind S. Singhji Longowal,
Ex-Member- Gurudwara Sachkhand
Board Takhat Sachkhand Sri Hazur
Abchnagar Sahib, Nanded
Age 72 years, Occu. Business,
R/o Teja SinghSamundri Hall,
SGPC Opffice, Amritsar 143 006
- 8) S. Raghuji Singh Ji Virk
Ex- Member, Gurudwara Sachkhand Board
Takhat Sachkhand Sri Hazur Abchnagar
Sahib, Nanded, Age 58 years,
Occu. Business. R/o Virk House,
Meera Ghati GT Road, Karnal- 132001

- 9) S. Harpal Singh Bhatia
Ex-Member- Gurudwara Sachkhand Board
Takhat Sachkhand Sri Hazur Abchalnagar
Sahib Nanded, Age 29 years,
Occu. Business, R/o 9/A, Prem Nagar,
Indore, (M.P.)

... PETITIONERS

VERSUS

- 1) The State of Maharashtra
through the Principal Secretary,
Department of Revenue & Forests,
M.S., Mantralaya, Mumbai
- 2) The Hon'ble Chief Minister
Government of Maharashtra
M.S., Mantralaya, Mumbai
- 3) The Hon'ble Deputy Chief Minister,
Government of Maharashtra,
M.S., Mantralaya, Mumbai
- 4) The Hon'ble Minister
Department of Revenue & Forest,
M.S., Mantralaya, Mumbai
- 5) The Collector, Nanded
- 6) The Superintendent,
The Takht Sachkhand Shri Hazur
Apchalnagar Sahib Board, Nanded,
Taluka and District Nanded
- 7) Dr. Parvinder Singh Pasricha,
I.P.S. (Retired), Age 55 years,
Occ. Pensioner, R/o as above.

(Notices to the Respondents No.1 to 5
to be served through the Government

Pleader, High Court of Bombay,
Bench at Aurangabad)

... **RESPONDENTS**

.....
Mr. R.S. Deshmukh, Senior Counsel with
Mr. Kunal Kale & Ms Ashwini Deshmukh, i/b
Mr. Devang Deshmukh, Advocate for petitioners
Dr. Mr. Biren Saraf, Advocate General with
Mr. A.B. Girase, Government Pleader for R.No.1, 4 & 5
Mr. G.A. Gadhe, Advocate for R.No.6
Mr. P.R. Katneshwarkar, Senior Counsel i/b
Mr. Anuj Fulpagar, Advocate for R.No.7
Mr. S.A. Nagarsoge, Advocate for applicant/ intervener in
Civil Application No.9419/2025

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WITH

WRIT PETITION NO.4665 OF 2024 WITH
CIVIL APPLICATION NO.6292 OF 2024

- 1) Sardar Manjeet Singh Jagan Singh
Aged about: 60 years, Occ. Business
Address : House No.3-6-219, Badpura,
Nanded – 431 601
- 2) Jagjeevan Singh Trilok Singh Ramgadiya,
Aged about: 45 years, Occ. Business,
Address : House No.3-6-489,
Satnam Niwas, Gurudwara Chourasta,
Nanded – 431 601
- 3) Tahel Singh Gurmukh Singh Nirmale
Aged about: 75 years, Occ. Business,
Address: House No.4-2-3, Shaheed
Bhagat Singh Road, Near Govindbagh,
Nanded – 431 601
- 4) Sardar Bishan Singh Beeran Singh,

Aged about : 56 years, Occ. Business,
Address: House No.2-3-263, New Sikhwadi,
Karimnagar (Telangana) 505001

- 5) Sardar Triloksingh Kartar Singh,
Aged about : 50 years, Occ. Business,
Address: House No.2-6-59/1, Sikhwadi,
Karimnagar (Telangana) 505001
- 6) Gulab Singh Chanda Singh Khandarwale
Aged about: 75 years, Occ. Business,
Address: Block No.1, Khalsa Colony,
Gawalipura, Station Road,
Nanded – 431 601
- 7) Darshansingh Charansingh Motorwale,
Aged about: 85 years, Occ. Business,
Address: House No.3-6-190,
Gurudwara Gate No.3, Badpura,
Nanded – 431 601
- 8) Sardar Parvinder Singh Amar Singh,
Aged about: 57 years, Occ. Business,
Address: House No.2-5-22, Sikhwadi,
Karimnagar (Telangana) 505001
- 9) Narendra Singh Gangan Singh
Asarjanwale, Aged about : 48 years,
Occ. Business, Address: House
No.3-4-100, Near Tara Singh Market,
Guru Gobindsingh Road,
Nanded 431 601
- 10) Amarjeet Singh Khem Singh Shiledar,
Aged about : 55 years, Occ. Business,
Address : Paras Ghar No.3, Sector No.4,
Govindbagh, Abchalnagar,
Nanded – 431601
- 11) Sardar Santok Singh s/o Johar Singh

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Aged about: 50 years, Occ.
R/o H. No.6-3-266,
Fateh Garh Gurudwara, Sahib Subhash
Nagar, Nizamabad (Telangana State)

- 12) Sardar Surjit Singh s/o Jivan Singh
Girnewale, Age: 72 years, Occ. Business,
R/o Gate No.3, Gurudwara, Nanded
Tq. & Dist. Nanded
- 13) Avtar Singh s/o Ratan Singh
Age: 65 years, Occ.
R/o Vishnupuri, Nanded
Tq. & Dist. Nanded
- 14) Sardar Ajit Singh s/o Khanna Singh,
Age: 50 years, Occ.
R/o H. No.4-2-267,
Hanuman Tekadi, Bodhan, Block No.2,
Ward 4, Dist. Nizamabad
(Telangana State)
- 15) Raja Singh s/o Gurubachan Singh,
Age: 56 years, Occ.
R/o Badapura, Nanded
- 16) Sardar Manindersingh s/o Inder Singh,
Age: 38 years, Occ. Business,
R/o H.No.12-10-125/19, Gajulpeth,
Near Post Office, Nizamabad ... **PETITIONERS**

VERSUS

- 1) The State of Maharashtra
through its Secretary of the
Revenue & Forest Department,
Mantralaya, Mumbai – 32

(copy to be served for Resp. No.1
on Govt. Pleader, in the office of

High Court of Judicature of Bombay,
Bench at Aurangabad)

- 2) Nanded Sikh Gurudwara Apchalnagar,
Nanded, through its Superintendent,
Nanded, Tq. & Dist. Nanded
- 3) Dr. Vijay Satbir Singh
Administrator of Nanded Sikh
Gurudwara, Apchalnagar, Nanded,
through its Superintendent, Nanded,
Tq. & Dist. Nanded

... **RESPONDENTS**

.....
Mr. S.G. Karlekar, Advocate holding for
Mr. J.V. Patil, Advocate for petitioners
Dr. Mr. Biren Saraf, Advocate General with
Mr. A.B. Girase, Government Pleader for R.No.1
Mr. P.P. Mandlik, Advocate for R.No.2 & 3
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**CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

Date of reserving judgment : 18th September, 2025

Date of pronouncing judgment : 6th October, 2025

JUDGMENT (PER : R.G. AVACHAT, J.) :

Both these Writ Petitions are taken up together since common questions of facts and law arise therein. For the sake of convenience, papers in Writ Petition No.10553/2022 would be referred.

2. This Writ Petition has been filed for the following main relief :

- (C) Rule may kindly be made absolute by allowing the Writ Petition, thereby quashing and setting aside the impugned Notification dated 29/06/2022 (Annexure 'D') issued from the Department of Revenue and Forest, M.S., Mantralaya, Mumbai, whereby the Nanded Sikh Gurudwara Sachkhand Shri Hazur Apchalnagar Sahib Board, Nanded came to be dissolved or superseded and further the respondent No.7/ Dr. P.S. Pasricha- I.P.S. (Retired) came to be appointed for performing and exercising all the duties and powers on behalf of the Nanded Sikh Gurudwara Sachkhand Shri Hazur Apchalnagar Sahib Board, Nanded.
- (C-1) Rule may kindly be made absolute by allowing the Writ Petition, thereby reinstating forthwith the Nanded Sikh Gurudwara Sachkhand Shri Hazur Apchalnagar Sahib Board, which came to be dissolved or superseded vide impugned notification, dated 29/06/2022 (Annexure "D") till the formation of the new Nanded Sikh Gurudwara Sachkhand Shri Hazur Apchalnagar Sahib Board, Nanded.

FACTS:

3. The petition was originally preferred by only one of the members of the Board. After the respondent State pointed out certain shortcomings in the Writ Petition, other members of the Board have joined in as petitioners with some amendment in the pleadings.

4. The then Hyderabad State passed the Act, "The Nanded Sikh Gurudwara Sachkhand Shri Apchalnagar Sahib Act, 1956 ("the Act" for short). The Act was passed for the proper administration of the Nanded Sikh Gurudwara. The petitioners were the members of the Board, nominated by the State Government. Number of complaints were received regarding functioning of the Board. The State Government appointed a Committee to enquire into the complaints received. The Committee submitted its report to the State Government, which in turn, issued the notification dated 29/6/2022, superseding the Board by nominating one of the retired I.P.S. officers to manage the affairs of the Nanded Gurudwara. The said notification is sought to be annulled/ set aside in these Writ Petitions with the consequential prayer for reinstatement of the Board.

5. The challenge is mainly on the following grounds :

- (i) The then Government acted in undue haste to topple the Board. The decision was taken on the last day of the Maha Vikas Aghadi's rule.

- (ii) Malafides are thus attributed to the then Government in Power.
- (iii) No notice under Section 53 of the Act was served upon all the members of the Board. The same constituted breach of principles of natural justice.
- (iv) None of the grounds of complaint alleged to have been proved has a potential to dislodge the Board or any of its members.

6. The petition has been countered with filing affidavits-in-reply. Learned Advocate General (A.G.) represented the State of Maharashtra and its instrumentalities. It was first submitted by the learned A.G. that the notice under Section 53 of the Act was served on the Board. An admission to that effect pleaded in para 24 of the Writ Petition was adverted to. According to the learned A.G., number of complaints were received inviting the Government's attention towards the mismanagement of the Gurudwara affairs. A Committee was, therefore, constituted to enquire into the complaints. The Superintendent of the Gurudwara was very

much present during the enquiry. All the record including the Books of Accounts were inspected by the Enquiry Committee. The Enquiry Committee was fair enough to conclude that only 4 of number of allegations made in the complaints were found to have been proved. He then adverted our attention to certain provisions of the Act to submit that, holding of meeting of the Board at least once in four months was mandatory. No such meetings were held during the relevant period. No audit reports were placed within the time-frame. Moreover, the estimate/ budget of each and every year had also not been placed for approval on or before 31st of March each year. In spite of there being Government orders preventing movements or assembly of persons so as to prevent spread of Corona pandemic, the petitioners, in violation of those orders, took out a procession. They confronted with the authorities deputed for maintenance of law and order. Those authorities were manhandled. Crimes were, therefore, registered against the petitioners and others. In one of the communications made by one of the petitioners, he admitted that most of the members of the Board/ petitioners were absconding during the relevant

time. The learned A.G. meant to say that, there was no coordination among the members of the Board. Even if the President was not keeping well and unable to convene a meeting of the Board, our attention was adverted to Section 15 of the Act, whereunder the members of the Board were authorized to convene a meeting. The same has not been done. According to learned A.G., the petition is silent to deny or traverse the enquiry report. The same suggests the petitioners to have impliedly admitted the report of the Enquiry Committee. Giving a notice as a part of principles of natural justice, although not a formality, when the matter comes to the Court of law, the person claiming violation of principles of natural justice need to make out a case of prejudice. For want of pleadings in the petition, it could safely be observed that the petitioners did not suffer any prejudice by non-receipt of a show-cause-notice, if any. According to the learned A.G., although after having pointed out certain shortcomings, other members of the Board joined in the petition as petitioners, no fresh pleadings have been introduced. As such, the report of the enquiry went unchallenged. According to him, the Enquiry

Committee completed the enquiry before the time-frame and, therefore, the report was submitted two days in advance. No fault, therefore, could be found therewith. More so, when the petitioners themselves referred to the enquiry report. He would further submit that, the tenure of the petitioners has long been over. This Court, in exercise of discretionary jurisdiction under Article 226 of the Constitution of India, can refuse to grant the relief of reinstatement. According to him, the grounds for toppling the Board, given in Section 53 of the Act, have all been made out. It was not necessary for supersession of the Board that the Board Members should indulge in financial mismanagement. In support of his submissions, the learned A.G. has relied on the following three authorities :

- (1) State of Assam & anr. Vs. Gauhati Municipal Board, Gauhati [AIR 1967 SC 1398]
- (2) Dharampal Satyapal Limited Vs. Deputy Commissioner of Central Excise, Gau & ors. [(2015) 8 SCC 519]
- (3) State of Uttar Pradesh Vs. Sudhir Kumar Singh & ors. (2021) 19 SCC 706

7. We need not detain ourselves with the submissions advanced by the learned Advocates for the respective parties.

Those are very much on our mind. Let us, therefore, turn to appreciate the same in the light of the factual and legal matrix.

8. As stated above, the Hyderabad State passed the Act for better management of Nanded Gurudwara affairs. A glance at the relevant provisions of the Act is a must. We, therefore, reproduce certain provisions thereof.

Section 2 of the Act defines certain terms. Sub-clause (8) defines the term 'Board' to mean the Board constituted under the provisions of Chapter II.

Chapter II of the Act speaks of control of the Gurudwara. By virtue of Section 5 of the Act, the Board shall be recognized by name of "The Nanded Sikh Gurudwara Sachkhand Shri Hazur Apchalnagar Sahib Board". The Board is a body corporate having a perpetual succession and a common seal with power to acquire and hold property and transfer the same subject to such conditions and restrictions as may be prescribed. Section 6 speaks of constitution of the Board. It is a 17 member Board, 12 of whom to be nominated

by the State Government. Section 7 speaks of a disqualification of an independent member to hold the office as a member or an office bearer in a capacity as a member.

Section 8 reads thus :

“8. The members of the Board shall hold office for three years from the date of its constitution or until constitution of a new Board, whichever is later.”

Section 9 (2) reads thus :

“9. (2) If any person having been nominated or elected member of the Board absents himself without sufficient cause from three consecutive meetings of the Board, his name may be removed from membership of the Board, provided that if he applies to the Board within one month of the removal of his name to be restored to membership, the Board may at the meeting next following the date of receipt of such application restore him to office, provided further that no members shall be restored more than three times.

Section 13 reads thus :

“Meeting of the Board, other than the first meeting, shall be held as often as necessary at Nanded or at such other place as the President may determine, but at least one meeting shall be held in every four months.”

Section 15 reads thus :

“15. Not less than one fourth of the whole number of members may by application in writing made to the President demand that a meeting of the Board be held and if notwithstanding such demand, notice of a meeting is not given within fifteen days of the date on which the application was received by the President, the applicants may themselves call a meeting to be held at the Office of the Board by ten days notice served in the manner described in Section 14.”

9. The Scheme of the Act indicates that, there shall be a Superintendent to look after the day-to-day affairs of the Gurudwara. A Committee is there to control the day-to-day affairs and the Apex body is in the nature of the Board.

Section 53 reads thus :

“53.1) If the Government is of opinion that the Board is unable to perform, or has persistently made default in the duty imposed on it by or under this Act or has exceeded or abused its powers, the Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification.

Provided that before issuing a notification under this sub-section the Government shall give a reasonable time to the Board to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Board.

2) Upon the publication of a notification under sub-section (1), superseding the Board -

- a) all the members of the Board and the Committee shall, as from the date of supersession, vacate their offices as such members;
 - b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board or the Committee shall, during the period of supersession be exercised and performed by such person or persons as the Government may direct, and;
 - c) all property vested in the Board shall, during the period of supersession, vest in the Government.
- 3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), Government may -
- a) extend the period of supersession for such period as it may consider necessary, or
 - b) reconstitute the Board and the Committee in the manner provided in Chapter II.”

10. A look at the aforesaid provisions and the Scheme of the Act, one will have no difficulty to conclude that the Board means and includes its members, both nominated by the State Government and elected as per the Scheme under Section 6 of the Act. As such, the members of the Board constitute the

Board itself. It is also true that, the Board has been recognized as a separate entity, which can, on its own sue or be sued in its own name.

11. Admittedly, the Board was reconstituted in 2019. The tenure of the Board was for three years. In the meanwhile, number of complaints were said to have been received against the Members of the Board. A three member Committee was, therefore, constituted to look/ enquire into the allegations in the complaint. The record indicates that the Committee enquired into the complaints and found substance in four of the complaints. The nature of those complaints said to have been proved is :-

- (1) The Board did not convene/ hold requisite number of meetings.
- (2) No annual budget was placed for approval on or before 31st March each year.
- (3) No accounts were audited within a time-frame.
- (4) The Board/ petitioners took out a procession in breach of directions issued with a view to contain or prevent

spread of Corona pandemic.

12. True, the Superintendent of the Board was present before the enquiry committee all along. It is also true that, the enquiry committee did not find substance in rest of the complaints including fiscal mismanagement or misappropriation.

13. As seen above, under Section 53(1) of the Act, the State Government has power to supersede the Board for such period as may be specified in the notification. The grounds for supersession are :

- (1) Inability of the Board to perform,
- (2) Persistent default in discharge of duty imposed on the Board by or under the Act.
- (3) The Board has exceeded or abused its powers.

14. The proviso to sub-section (1) mandates the State Government to give the Board a reasonable time to show cause why it should not be superseded. The State Government is under obligation to consider the explanation

and objections, if any, the Board has offered.

15. The phraseology of Section 53(1) suggests that, the notice should be given to the Board. Under the Act, the term 'Board' has been defined to mean a Board constituted in terms of Section 6 of the Act. In our view, the notice provided under the proviso should be given to each and every member of the Board. A look at Section 7 of the Act indicates that, an individual member of the Board could be disqualified to hold the office as a member of the Board in certain circumstances. It has been stated time and again by the Apex Court that, when certain things to be done in a certain manner prescribed by the Statute, the same has to be done in that manner alone or not at all. Let us, therefore, advert to the record as to whether the State Government had in fact issued the notice to the Board (each and every member thereof). The show-cause-notice is dated 30/5/2022. It has been addressed to the President, Gurudwara Board, Nanded. It has been averred in the notice that, some complaints have been received and the State Government was prima facie of the view that the Board members have defaulted in their duty and abused their

powers. It, therefore, called upon the President of the Board to show cause within a period of seven days as to why the Board shall not be superseded.

16. In our view, the notice is bad for more than one reason. First, it has been addressed to the President of the Board alone and not to the individual members of the Board. One could have understood if the notice is addressed to the Gurudwara Board and was served on it by delivering it to either the Superintendent or President of the Board. Furthermore, the notice has been issued on the strength of the allegations which were not enquired into while the notice was issued. Meaning thereby, when the notice was issued, the State Government did not have any material before it about the substance in the allegations or the complaints to have been proved on enquiry. It is, therefore, just difficult to imagine as to how the State Government, without there being any findings about the allegations made in the complaint, could issue notice under Section 53(1) of the Act, and call upon the President of the Board to show cause. Along with the show-cause-notice, copies of the complaints were said to have been served on the

President of the Board. It has been specifically averred in the petition, after amendment, that, no notice was individually served on the Board members. The report of enquiry had never been served to any of the Board members (petitioners). The petitioners, therefore, required to obtain the enquiry report, under the Right to Information Act.

17. Admittedly, the Committee, appointed to make enquiry into the allegations did its job in June 2022. In our view, after the receipt of the enquiry report, the State Government ought to have served the same along with the show-cause-notice to each and every member of the Board. The same has admittedly not been done in this case. True, in para 24 of the Writ Petition, it has been averred that the Gurudwara Board was served with the show-cause-notice dated 30/5/2022. Those were the pleadings when the petition was filed by the then sole petitioner No.1. It is true that, after joining of the other members of the Board as co-petitioners, the pleadings have not been substantially amended. The said admission remained as it is. Law as regards admission is crystal clear. Admissions are not conclusive proof. It may,

however, estop. Admission can be explained, proved to be wrong or successfully be withdrawn. The admission appearing in para 24 of the petition was that of the sole petitioner No.1. The same would not bind the co-petitioners. Moreover, the record itself indicate the said admission was not factually correct.

18. Giving of a notice to show cause is in the nature of principles of natural justice introduced by a statutory provision.

19. In case of **State Orissa Vs. Binapani Dei (AIR 1967 SC 1269)**, it has been observed :-

“Even administrative orders which involved civil consequences have to be passed consistently with the rules of principles of natural justice.”

20. In the case in hand, we are not concerned with the general principles of natural justice under the Administrative Law. The proviso to Section 53(1) introduced the statutory mandate of issuance of a show-cause-notice. A three Judge Bench of the Apex Court, in case of **City Corner Vs. Personal Asstt. To Collector and Addl. District Magistrate, Nellore (AIR**

1976 SC 143), observed :

5. But the main ground of attack against the order of cancellation is that in making it the District Magistrate had failed to observe the principles of natural justice. The order that the District Magistrate passed is a quasi-judicial order and therefore the appellant is right in contending that the principles of natural justice should have been followed before that order was passed. It is now well established by decisions of this Court that such is the requirement of law even where the statute in question itself does not so provide. It is also well established that the principles of natural justice do not necessarily conform to a fixed formula, nor is it a procrustean bed into which all proceedings must be fitted. The principles of natural justice will always depend upon the facts of each case. The learned Judges of the High Court examined the various documents the copies of which had been asked for by the appellant and came to the conclusion that the show cause notice issued to him contained a summary of all those documents which was sufficient to enable the appellant to make his representation. We cannot say that this conclusion is wrong. It is not always necessary that the documents asked for should itself be furnished provided the substance of those documents is furnished, always provided, however, that the summary is not misleading. Such is not the case here. But when the appellant asked for original documents he could at least have been told that he had already been given a summary of the documents which was sufficient to enable him to make his representation and he could make his fuller representation as he had promised in his earlier so called interim reply. The District Magistrate's characterisation of the interim reply of the appellant as a routine one is not correct. After all the opinion of the Village Panchayat which is a representative body of all the villagers is entitled to great if not greater weight than that of the Mitramandali and the Town Yuvajanasangham,

the composition of which or the strength of which we do not know. The Village Panchayat was also competent on a consideration of all the facts to form its own opinion. The opinions of representative bodies should not be lightly brushed aside unless of course there is reason to think that they have acted out of considerations other than relevant. We are of opinion that the order passed by the District Magistrate post-haste immediately he received the appellant's reply without either giving him the copies asked for or at least telling him that the material already furnished was sufficient to enable him to make his representation and if he had any further representation to make he could do so offends the principles of natural justice. We are aware that we are dealing with an appeal questioning the proceedings initiated under Article 226 of the Constitution where the power of the Court is a limited one, that is to say, limited to cases where there is any error of law apparent on the face of the record. But the observance of the principles of natural justice is fundamental to the discharge of any quasi-judicial function. We therefore allow the appeal and set aside the order of the District Magistrate.”

21. In case of **Southern Painters Vs. Fertilizers and Chemicals Travancore Ltd. & anr. [1994 Supp (2) SCC 699]**, it has been observed :

10. Again, in *Raghunath Thakur v. State of Bihar* (1989) 1 SCC 229, this Court observed: (SCC p. 230, para 4) -

4) "Indisputably, no notice had been given to the appellant of the proposal of blacklisting the appellant. It was contended on behalf of the State Government that there was no requirement in the rule of giving any prior notice before blacklisting any person. Insofar as the

contention that there is no requirement specifically of giving any notice is concerned, the respondent is right. But it is an implied principle of the rule of law that any order having civil consequence should be passed only after following the principles of natural justice. It has to be realised that blacklisting any person in respect of business ventures has civil consequence for the future business of the person concerned in any event. Even if the rules do not express so, it is an elementary principle of natural justice that parties affected by any order should have right of being heard and making representations against the order."

While in case of Krishna Lal Vs. State of Jammu

& Kashmir (1994) 4 SCC 422, it has been held :

"Whether the violation of the mandatory provision under Section 17(5) of the J & K Act regarding furnishing of copy of proceedings of the enquiry to the delinquent would render the order of dismissal a nullity would depend upon whether the requirement under Section 17(5) is one which is for the benefit of the individual concerned or serves a public purpose. If it be former, the same can be waived; if it be latter, it cannot be. The requirement is for the benefit of the person concerned which is to enable him to know as to what had taken place during the course of the proceedings so that he is better situated to show his cause as to why the proposed penalty should not be imposed. Such a requirement cannot be said to be relatable to public policy or one concerned with public interest, or to serve a public purpose. Thus the requirement mentioned in Section 17(5) of the Act despite being mandatory is one which can be waived. If, however, the requirement has not been waived any act or action in violation of the same would be a nullity. In the present case as the appellant had far from waiving the benefit, asked for the copy of the

proceeding despite which the same was not made available, it has to be held that the order of dismissal was invalid in law. This, however, is not sufficient to demand setting aside of the dismissal order in this proceeding itself because what has been stated in ECIL case in this context would nonetheless apply. This is for the reason that violation of natural justice which was dealt with in that case, also renders an order invalid despite which the Constitution Bench did not concede that the order of dismissal passed without furnishing copy of the inquiry officer's report would be enough to set aside the order. Instead, it directed the matter to be examined as stated in paragraph 31."

22. The facts in the case of Gauhati Municipal Board (supra) indicate that the notice was served on the Board. The tenure of all the members of the Board had come to an end by July 6, 1966. From reading of the said judgment, we could not gather the format of the notice besides title thereof. We have already observed here that, the notice in question was issued in the name of the President of the Board alone and not the Board or the members thereof individually.

23. There can be no two views over what has been observed in case of Dharampal and Sudhir (supra). We propose to reproduce the relevant observations from both the authorities relied on by the learned A.G. In case of Dharampal,

the Hon'ble Supreme Court observed :

“38. But that is not the end of the matter. While the law on the principle of audi alteram partem has progressed in the manner mentioned above, at the same time, the Courts have also repeatedly remarked that the principles of natural justice are very flexible principles. They cannot be applied in any straight-jacket formula. It all depends upon the kind of functions performed and to the extent to which a person is likely to be affected. For this reason, certain exceptions to the aforesaid principles have been invoked under certain circumstances. For example, the Courts have held that it would be sufficient to allow a person to make a representation and oral hearing may not be necessary in all cases, though in some matters, depending upon the nature of the case, not only full-fledged oral hearing but even cross-examination of witnesses is treated as necessary concomitant of the principles of natural justice. Likewise, in service matters relating to major punishment by way of disciplinary action, the requirement is very strict and full-fledged opportunity is envisaged under the statutory rules as well. On the other hand, in those cases where there is an admission of charge, even when no such formal inquiry is held, the punishment based on such admission is upheld. It is for this reason, in certain circumstances, even post-decisional hearing is held to be permissible. Further, the Courts have held that under certain circumstances principles of natural justice may even be excluded by reason of diverse factors like time, place, the apprehended danger and so on.

39. We are not concerned with these aspects in the present case as the issue relates to giving of notice before taking action. While emphasizing that the principles of natural justice cannot be applied in straight-jacket formula, the aforesaid instances are given. We have highlighted the jurisprudential basis of

adhering to the principles of natural justice which are grounded on the doctrine of procedural fairness, accuracy of outcome leading to general social goals, etc. Nevertheless, there may be situations wherein for some reason – perhaps because the evidence against the individual is thought to be utterly compelling – it is felt that a fair hearing 'would make no difference' – meaning that a hearing would not change the ultimate conclusion reached by the decision-maker – then no legal duty to supply a hearing arises. Such an approach was endorsed by Lord Wilberforce in *Malloch v. Aberdeen Corporation* [(1971) 2 All ER 1578], who said that :

“... A 'breach of procedure...cannot give (rise to) a remedy in the courts, unless behind it there is something of substance which has been lost by the failure. The court does not act in vain'.

Relying on these comments, Brandon LJ opined in *Cinnamond v. British Airports Authority*[(1980) 1 WLR 582] that 'no one can complain of not being given an opportunity to make representations if such an opportunity would have availed him nothing'. In such situations, fair procedures appear to serve no purpose since 'right' result can be secured without according such treatment to the individual.

40. In this behalf, we need to notice one other exception which has been carved out to the aforesaid principle by the Courts. Even if it is found by the Court that there is a violation of principles of natural justice, the Courts have held that it may not be necessary to strike down the action and refer the matter back to the authorities to take fresh decision after complying with the procedural requirement in those cases where non-grant of hearing has not caused any prejudice to the person against whom the action is taken. Therefore, every violation of a facet of natural justice may not lead to the conclusion that order

passed is always null and void. The validity of the order has to be decided on the touchstone of 'prejudice'. The ultimate test is always the same, viz., the test of prejudice or the test of fair hearing.

41. In ECIL v. B. Karunakar (1993) 4 SCC 727, the majority opinion, penned down by Sawant, J., while summing up the discussion and answering the various questions posed, had to say as under qua the prejudice principle:

“30. Hence the incidental questions raised above may be answered as follows:

xx xx xx

(v) The next question to be answered is what is the effect on the order of punishment when the report of the enquiry officer is not furnished to the employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back-wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the

employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an “unnatural expansion of natural justice” which in itself is antithetical to justice.”

42. So far so good. However, an important question posed by Mr. Sorabjee is as to whether it is open to the authority, which has to take a decision, to dispense with the requirement of the principles of natural justice on the ground that affording such an opportunity will not make any difference? To put it otherwise, can the administrative authority dispense with the requirement of issuing notice by itself deciding that no prejudice will be caused to the person against whom the action is contemplated? Answer has to be in the negative. It is not permissible for the authority to jump over the compliance of the principles of natural justice on the ground that even if hearing had been provided it would have served no useful purpose. The opportunity of hearing will serve the purpose or not has to be considered at a later stage and such things cannot be presumed by the authority. This was so held by the English Court way back in the year 1943 in the case of *General Medical Council v. Spackman*[1943 AC 627]. This Court also spoke in the same language in the case of *The Board of High School and Intermediate Education, U.P. & Ors. v. Kumari Chittra Srivastava & Ors.*[(1970) 1 SCC 121], as is apparent from the following words:

“7. The learned counsel for the appellant, Mr. C.B. Aggarwal, contends that the facts are not in dispute and it is further clear that no useful purpose would have been served if the Board had served a show cause notice on the petitioner. He says that in view of these circumstances it was not necessary for the Board to have issued a show cause notice. We are unable to accept this contention. Whether a duty arises in a

particular case to issue a show cause notice before inflicting a penalty does not depend on the authority's satisfaction that the person to be penalised has no defence but on the nature of the order proposed to be passed.”

43. In view of the aforesaid enunciation of law, Mr. Sorabjee may also be right in his submission that it was not open for the authority to dispense with the requirement of principles of natural justice on the presumption that no prejudice is going to be caused to the appellant since judgment in R.C. Tobacco P. Ltd. V. Union of India (2005) 7 SCC 725 had closed all the windows for the appellant.

44. At the same time, it cannot be denied that as far as Courts are concerned, they are empowered to consider as to whether any purpose would be served in remanding the case keeping in mind whether any prejudice is caused to the person against whom the action is taken. This was so clarified in the case of ECIL v. B. Karunkar (1993) 4 SCC 727 itself in the following words:

31. Hence, in all cases where the enquiry officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the Courts and Tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the Court/ Tribunal and given the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the Court/Tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the Court/Tribunal should not interfere with the order of punishment. The Court/ Tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as it regrettably being done at present.

The courts should avoid resorting to short cuts. Since it is the Courts/Tribunals which will apply their judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be neither a breach of the principles of natural justice nor a denial of the reasonable opportunity. It is only if the Court/Tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment.”

45. Keeping in view the aforesaid principles in mind, even when we find that there is an infraction of principles of natural justice, we have to address a further question as to whether any purpose would be served in remitting the case to the authority to make fresh demand of amount recoverable, only after issuing notice to show cause to the appellant. In the facts of the present case, we find that such an exercise would be totally futile having regard to the law laid down by this Court in R.C. Tobacco (supra).”

In case of Sudhir, it has been observed :

“42. An analysis of the aforesaid judgments thus reveals:

(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the

orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3)No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.”

24. In case of Isolators and Isolators through its Proprietor Sandhya Mishra Vs. Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited & anr. [2023 AIR (SC) 2058], the Hon’ble Supreme Court, referred to the case of UMC Technologies Private Limited Vs. Food Corporation of India & anr. [2021 SCC (2) 551], paragraph No.13 of which reads as under :

“13. At the outset, it must be noted that it is the first principle of civilised jurisprudence that a person against whom any action is sought to be taken or whose right or interests are being affected should be given a reasonable opportunity to defend himself. The basic principle of natural justice is that before adjudication starts, the authority concerned should give to the affected party a notice of the case against him so that he

can defend himself. Such notice should be adequate and the grounds necessitating action and the penalty/ action proposed should be mentioned specifically and unambiguously. An order travelling beyond the bounds of notice is impermissible and without jurisdiction to that extent. This Court in *Nasir Ahmed v. Custodian General, Evacuee Property*, (1980) 3 SCC 1 has held that it is essential for the notice to specify the particular grounds on the basis of which an action is proposed to be taken so as to enable the noticee to answer the case against him. If these conditions are not satisfied, the person cannot be said to have been granted any reasonable opportunity of being heard.”

25. It is true that, in the petition, the enquiry report has not been substantially traversed. That, however, does not mean the petitioners to have admitted the conclusions arrived at by the enquiry committee. As seen above, the Scheme of the Act suggests that most of the members of the Board were nominated by the Government. An individual member of the Board could be held to be disqualified if he was found to have indulged in some unwanted activities. In terms of Section 53(1) of the Act, the Board could be superseded only after the show-cause-notice is issued to the Board (according to us, each and every member of the Board) and that too after finding the explanation or objection offered by the members of the Board to be not satisfactory. It is reiterated that, in the case in

hand, no show-cause-notice along with the enquiry report was served on the petitioners individually. The show-cause-notice was served on the President alone, that too long before the enquiry committee was even constituted. In our view, that is the non-compliance of the mandate of Section 53(1) of the Act, the breach whereof goes to the root of the matter. If we accept the submission of the learned A.G. that the petitioners have failed to make out a case of what prejudice has been caused to them by non-service of notice to show cause, in our view, the petitioners were condemned unheard. They were being unseated of the post of members of the Board. It has necessarily a civil consequence. Without affording the petitioners opportunity of hearing, they are held to have been guilty of the grounds in Section 53 of the Act, which authorizes the State Government to supersede the Board for a certain duration.

26. In our view, when the action of the State Government in superseding the Board is held to be illegal, the legal consequence thereof is to restore the status-quo ante. It is true that, the term of the petitioners (Board members) has

already been over. Section 8 of the Act, however, specifies that the members of the Board shall continue officiating until the constitution of a new Board, even after the expiry of their three-year term by efflux of time. It is true that, in exercise of jurisdiction under Article 226 of the constitution of India, this Court may even refuse to grant the relief since it is discretionary in nature. Needless to mention, discretion is to be exercised rationally/ judicially. The nature of complaints do not have potential to dictate our conscious not to grant the discretionary relief of restoring the status-quo ante.

27. It is true that, the petitioners, vide prayer clause (C), only seek setting aside the notification with a further direction to appoint a new Board. In our view, the said prayer clause remained in the petition as it is on account of the negligence of the petitioners. This prayer clause was there since beginning i.e. when the petition was filed by the sole petitioner. Thereafter the petition was amended, introducing the prayer for restoration of the Board. As we have already observed that the ground on which the Board has been toppled no longer sustained, the consequential relief of status quo ante

deserves to be granted.

28. In our view it was negligence on the part of the petitioners to withdraw from such prayer when on amendment of the petition, they came with a prayer for reinstatement of the Board. It cannot be taken that, the petitioners still continued with the said prayers. Even it is assumed the said prayers to have been still alive, the legal corollary of the decision in setting aside the impugned notification would be to restore the status-quo ante.

29. For all the aforesaid reasons, we find the action of the State Government in issuing notification superseding the Board of the Gurudwara to be illegal and therefore, required to be set aside. The petition, therefore, succeeds in terms of the following order :

ORDER

- (i) Writ Petition No.10553/2022 is allowed.
- (ii) The notification dated 29/06/2022 is hereby set aside.
- (iii) The respondent- State is hereby directed to restore
Nanded Sikh Gurudwara Sachkhand Shri Hazur

Apchalnagar Sahib Board to its original state i.e. its status immediately before issuance of notification dated 29/06/2022, within two months from the date of this order.

- (iv) In view of the above order, Writ Petition No.4665/2024 (second petition) stands disposed of.
- (v) Consequently, Civil Applications are disposed of.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)

FMPathan/-