



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.34269 of 2024 (O&M)
Reserved on:26.12.2024
Date of Order:10.01.2025

Swaran Singh

.Petitioner

Versus

State of Haryana and others

..Respondents

CWP No.34290 of 2024 (O&M)

Shiromani Akali Dal and another

.Petitioners

Versus

State of Haryana and another

..Respondents

CWP No.35321 of 2024 (O&M)

Angrej

.Petitioner

Versus

Haryana Sikh Gurudwara Election Commission, Haryana and others

..Respondents

CWP No.35360 of 2024 (O&M)

Shiromani Akali Dal Azad

.Petitioner

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. S.S.Sodhi, Advocate
for the petitioner (in CWP No.35321-2024)

**Mr. Sunil Chadha, Senior Advocate, with
Mr. Rashpinder Singh Sohi, Advocate
for the petitioner (in CWP No.35360-2024)**

**Mr. Sanjeev Sharma, Senior Advocate, with
Mr. Sandeep Singh, Advocate
Mr. Jugansh Goyal, Advocate
for the petitioner (in CWP No.34290-2024)**

**Mr. Rashpinder Singh Sohi, Advocate
for the petitioner (in CWP No.34269-2024)**

Mr. Ravi Dutt Sharma, DAG, Haryana

ANIL KSHETARPAL, JUDGE

1. Brief facts of the case:

1.1 With the consent of the learned counsel representing the parties, four connected Civil Writ Petition Nos.34269, 34290, 35321 and 35360 of 2024, shall stand disposed of by a common order.

1.2 In Civil Writ Petition No.34269 and 35321 of 2024, the petitioner(s) while alleging that failure to reserve seats for Schedule Caste, Backward Class, Women, is unconstitutional as well as against the provisions of the Representation of the People Act, 1952 (hereinafter referred to as 'the Act of 1952') challenges the constitutional validity of Section 4(a) of the Haryana Sikh Gurudwara (Management) Act, 2014 (hereinafter referred to as 'the Act of 2014'). They have also questioned the election schedule issued on 10.12.2024.

1.3 In Civil Writ Petition No.34290 and 35360 of 2024, proviso to Clause 10 of the Haryana Sikh Gurudwara Management Committee Election Symbols (Allotment) Order 2023, that debars the registered political party to form a group in its name and apply for common symbol has been challenged.

1.4 In order to comprehend the issues involved in the present case,

certain relevant facts, in brief, are required to be noticed.

1.5 The State of Haryana enacted the Act of 2014, to provide for proper usage, administration, control, financial management reforms of the Gurudwaras located in the State of Haryana. Section 3, provides for establishment of a committee to be called the Haryana Sikh Gurudwara Management Committee (for short 'HSGMC') which shall be a body corporate with its Head Office at District Kurukshetra, which shall consist of forty members to be elected from the wards into which the State is divided, along with 9 additional members to be co-opted by these elected members. Clause (b) of Section 4(a) provides that out of nine co-opted members of the Committee, two members shall be co-opted from amongst Sikh women; three members shall be co-opted from the members belonging to Scheduled Castes and Backward Class category; two members shall be co-opted from amongst the General category having extensive knowledge of Sikh tenets and two members shall be co-opted from amongst the Presidents of the registered "Singh Sabhas" in the State. The term of members of the Committee shall be five years.

1.6 Section 10 lays down the qualifications of members, whereas Section 11 lays down provisions for the conduct of Elections. Section 13, which is most relevant for the decision of the present case outlines the appointment of a suitable person to be Commissioner, Gurudwara Elections, reads as under:-

Section 13

13. (1) The State Government may, by notification in the Official Gazette, appoint a suitable person to be the Commissioner Gurdwara Elections in whom shall vest

the powers of superintendence, direction, control and preparation of electoral rolls for, and conduct of, elections of members of the Committee.

(2) The State Government may also appoint Special Commissioner Gurdwara Elections, Additional Commissioner Gurdwara Elections or Joint Commissioner Gurdwara Elections or Deputy Commissioner Gurdwara Elections keeping in view the fitness of things and proper administrative adjudication of the provisions of this Act, rules and regulations made thereunder.

(3) A person shall not be qualified for appointment as the Commissioner Gurdwara Elections unless he is a citizen of India and possesses judicial, administrative or executive experience as a senior officer for a period of not less than ten years.

(4) Subject to the provisions of section 50, the term of office and the terms and conditions of service of the Commissioner Gurdwara Elections shall be such, as may be prescribed or as the Government may deem fit.”

1.7 It is important to observe that the language employed in Section 13 is evidently inspired by Article 324 of the Constitution of India, which confers upon the Election Commission the authority of superintendence, direction, and control over the conduct of elections.

1.8 In accordance with enabling powers provided under Section 52 of the Act of 2014, The Haryana Sikh Gurudwaras Management Committee

(Delimitation of Wards and Election) Rules, 2023 (hereinafter referred to as 'the Rules of 2023') have been notified on 17.07.2023, which were published in Haryana Government Gazette on 18.07.2023. The Commissioner, Guruwarda Election, Haryana, in exercise of powers vested in sub-Section (1) of Section 13 of the Act of 2014 and sub-Rule(1) of Rule 18 of the Rules of 2023, has notified the Haryana Sikh Gurudwara Management Committee Election Symbols (Allotment) Order, 2023 (hereinafter referred to as 'Symbol Order'). The main challenge is to proviso of Clause 10, which is extracted as under:-

10. Formation of Sikh Group/Organization. -

A Group/Organization can be formed by not less than fifty Sikhs for the purpose of setting up of its candidates and allotment of a common symbol to contest the election of the Haryana Sikh Gurdwaras Management Committee with the condition that

- i. Group/Organization shall be formed by not less than fifty Sikhs ;*
 - ii. Group/Organization shall have its office address in the State of Haryana ;*
 - iii. purpose of the Group/Organization is only to contest the election of the Haryana Sikh Gurdwaras Management Committee;*
 - iv. all members of the Group/Organization are residents of the Haryana State;*
 - v. The Group/Organization shall have its name;*
- Provided that no Group/Organization can be*

formed in the name of any Sikh Guru ;

- vi. no member of the Group/Organization is involved in any criminal activity or moral turpitude ;*
- vii. Group/Organization shall elect its President and Secretary;*
- viii. Group/Organization shall submit its request to the Commissioner, Gurdwara Elections for the allotment of common symbol for all candidates of its Group/Organization.*
- ix. request by the Group/Organization can be made at any time after publication of this Order in the official gazette of the State Government;*
- x. request shall contain a copy of the proceedings of the meeting showing the purpose of the formation of Group/Organization ;*
- xi. election of its President and Secretary should be mentioned in the proceeding of the meeting and they should be authorized for making correspondence with regard to this Order;*
- xii. choice of election symbols shall be made only from the election symbols notified by the Commissioner, Gurdwara Elections;*
- xiii. name of the Group/Organization shall not be the same, if the election symbol has already been allotted in the name of another Group/Organization;*

xiv. *no request for allotment of election symbol shall be made by the Group/Organization after the start of filing of nomination; and*

xv. *request shall be submitted to the Commissioner, Gurdwara Elections with an affidavit in supporting the facts mentioned in the request.*

Provided that no political party registered with the Election Commission of India under Section 29 A of the Representation of the People Act, 1951, can form a group/organization for the election of Haryana Sikh Gurdwaras Management Committee under the name of its political party; and further no group/organization shall apply for common symbol under the name which is identical or nearly resemble a name of any political party in any manner.”

1.9 On 10.12.2024, the Commissioner issued the schedule for the conduct of General Elections to the HSGMC. As per the schedule, nominations were to be filed between 20.12.2024 to 28.12.2024, while polling is scheduled for 19.01.2025. All four writ petitions have been filed subsequent to the issuance of the notification.

2. Arguments put forth by the learned counsel representing the parties

2.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with their written note of submissions.

2.2 In Civil Writ Petition No.35321 of 2024, the learned Senior Counsel Sh. Sanjiv Sharma, has challenged the validity of proviso to Clause-

10 by formulating the following three questions:-

- (1) Can a Commissioner encroach upon what the Act provides?
- (2) Can he under the garb of conducting elections create a class of persons associated as a political party and then further sub-classify one that is registered under Section 29A of the RPA and others that are not?
- (3) Can he restrict the exercise of rights by a political party to field its candidates when the Act creates no such bar?

2.3 Sh. Sunil Chadha, contended that the Shiromani Akali Dal Azad has been debarred from forming a group or organization for the allotment of a common election symbol solely because its name resembles a registered political party. He further submitted that the proviso is directly opposite to Clause 10(v) and the Sikh Gurudwara Act, 1925, does not prohibit the political parties from forming groups or contesting elections.

2.4 The learned counsel representing the petitioner in Civil Writ Petition Nos 34269 and 35321 of 2024, have submitted that reservation for the members of Scheduled Castes, Scheduled Tribes, Backward Class and women has not been provided, therefore, the 2014 Act is unconstitutional.

2.5 Per contra, the State's counsel while contesting the petitions has submitted that the competent authority has issued the impugned 'Symbol Order' which is in consonance with the scheme of the Act. He clarified that the Sikhs have not been debarred from making an Organization/association, however, political party registered with the Election Commission of India under Section 29 A of the Registration of People Act, 1951, have been debarred from forming a group/organization in its own name for the election

of HSGMC while relying upon the judgment in *Sadiq Ali and another etc. vs. The Election Commission of India , New Delhi and others etc., (1972) 4 SCC 664.*

3. Analysis and Discussion:

3.1 The very foundation of the first argument is fundamentally flawed. Section 10 lays down the qualification of member of the Committee, whereas, proviso to Clause-10 of the 'Symbol Order' enables the not less than 50 Sikhs to form Sikh groups/organizations for the purpose of contesting election to the Committee, set up by Section 10 of the Act of 2014. Section 10 of the Act of 2014, prescribes the qualification of members of the Committee. It is phrased negatively to exclude individuals who are not qualified to be elected or co-opted. However, the proviso to Clause 10 does not address individuals; it only deals with the formation of a Sikh group/organization, while excluding registered political parties from using their name to apply for a common symbol. Section 10 of the Act and Clause 10 of the Symbol Order operate in distinct fields, and there is no conflict between them. Therefore, it does not contradict the statutory provision.

3.2 Similarly, the second argument lacks substance because proviso to Clause-10 only debars a registered political party to form a group/organization under its own name and then apply for common symbol. The aforesaid proviso does not exclude members of political party to contest election. The proviso only debars the registered political party to come as a group and contest election on a common symbol. The obvious purpose is to discourage political parties to contest elections of HSGMC as a group. An effort has been made to exclude politicization of the HSGMC

which has been constituted for managing the Gurudwaras located in the State of Haryana and to preserve its properties. A Sikh Gurudwara is a sacred place of worship. The provision seeks to avoid the potentially harmful blend of religion and politics.

3.3 Similarly, there is no discrimination in classification between a registered political party and unregistered political party. The proviso to Clause 10 is merely a step towards the depoliticization of Gurudwaras, which are sacred places of great reverence. At the cost of repetition, it may be noted that politicians as individuals even if they are members of registered political party are not debarred from contesting the election. However, they have not been permitted to form a group/organization to collectively contest the elections as a group.

3.4 Considering the objectives sought to be achieved, the direct participation of a political party by fielding its candidates does not violate any legal or statutory rights. A political party is an association of like-minded individuals sharing a common political philosophy. The Committee is not a political body; it exists to manage the affairs and properties of the Gurudwaras in accordance with the principles established by the founders of the religion. In the absence of any infringement of legal or constitutional rights, a registered political party cannot claim an absolute right to participate as a group for the allotment of a common symbol to contest elections.

3.5 Similarly, the established political parties have not been reduced to the level of non entities. The HSGMC is not a political office or platform; it is a religious body. The Committee is not a political entity, nor is there any requirement for political parties to manage its affairs. Politicians, as

individuals, have neither been barred from contesting nor from winning elections. The comparison made by the learned counsel with various brand names of commercial products is misplaced.

3.6 The State enacted the Act of 2014 with the objective of effectively and permanently managing the sacred places of worship by members of the Sikh community in the State of Haryana, ensuring their proper usage, administration, and financial management reforms in line with the religious views of the community. Therefore, the proviso was added to prevent the politicization of the managing committee. It is important to note that the Commissioner has not overstepped the domain of the legislature, as is being contended.

3.7 Section 52 of the Act of 2014, enables the State Government to make rules to carry out its objects and means. In furtherance to the aforesaid objective, rules have already been notified. The Act envisages appointment of a suitable person as Commissioner, Gurudwara Elections. Hence, the 'Symbol Order' is not in contravention of the provisions of the Act of 2014 or Act of 1951.

3.8 On careful reading of Section 13, it is evident that the Commissioner's enabling powers of Superintendence, directions, control and preparation of electoral roles for and conduct of elections of members of the Committee are plenary as held by the Supreme Court in Sadiq Ali's case while interpreting Article 324 of the Constitution of India, which reads as under:-

“It would follow from what has been discussed earlier in this judgment that the Symbols Order makes detailed provisions for the reservation, choice and allotment of

symbols and the recognition of political parties in connection therewith. That the Commission should specify symbols for elections in parliamentary and assembly constituencies has also been made obligatory by rule 5 of Conduct of Election Rules. Sub-rule (4) of rule 10 gives a power to the Commission to issue general or special directions to the Returning Officers in respect of the allotment of symbols. The allotment of symbols by the Returning Officers has to be in accordance with those directions. Sub-rule (5) of rule 10 gives a power to the Commission to revise the allotment of a symbol by the Returning Officers in so far as the said allotment is inconsistent with the directions issued by the Commission. It would, therefore, follow that Commission has been clothed with plenary powers by the above mentioned Rules in the matter of allotment of symbols. The validity of the- said Rules has not been challenged before us. If the Commission is not to be disabled from exercising effectively the plenary powers vested in it in the matter of allotment of symbols and for issuing directions in connection therewith, it is plainly essential that the Commission should have the power to settle a dispute in case claim for the allotment of the symbol of a political party is made by two rival claimants. In case, it is a dispute between two individuals, the method for the settlement of that dispute is provided by paragraph 13 of

the Symbols Order. If on the other hand, a dispute arises between two rival groups for allotment of a symbol of a political party on the ground that each group professes to be that party, the machinery and the manner of resolving such a dispute is given in paragraph 15. Paragraph 15 is intended to effectuate and subserve the main purposes and objects of the Symbols Order. The paragraph is designed to ensure that because of a dispute having arisen in a political party between two or more groups, the entire scheme of the Symbols Order relating to the allotment of a symbol reserved for the political party is not set at naught. The fact that the power for the settlement of such a dispute has been vested in the Commission would not constitute a valid ground for assailing the vires of and striking down paragraph 15. The Commission is an authority created by the Constitution and according to [Article 324](#), the superintendence, direction and control of the electoral rolls for and the conduct of elections to Parliament and to the Legislature of every State and of elections to the office of President and Vice- President shall be vested in the Commission. The fact that the power of resolving a dispute between two rival groups for allotment of symbol of a political party has been vested in such a high authority would raise a presumption, though rebuttable, and provide a guarantee, though not absolute but to a

considerable extent, that the power would not be misused but would be exercised in a fair and reasonable manner.”

3.9. The last argument of Mr. Sanjiv Sharma is based on limited reading of Rule 18, while overlooking Section 13 of the Act of 2014. Undoubtedly, Rule 18 enables the Commissioner to publish a list of symbols by notifying in the official gazette, however, Section 13 confers exclusive jurisdiction in the Commissioner for conducting the elections .

3.10 Similarly, Mr. Chadha's argument that the proviso runs foul to Clause-V lacks substance because Clause-V permits a group/organization to have its name. Proviso to Clause-X does not prohibit the group/organizations to have its name. It only debars political party to nominate the candidates under the name of its political party and apply for common symbol. Hence, Clause-V operates in a different field, whereas the proviso operates in different area.

3.11 The Act of 2014 is a complete code in itself. The argument asserting the failure to provide reservation for SC/ST/OBC/Women lacks merit because Article 15 of the Constitution is merely an enabling provision. It does not prevent the State from making special provisions for the advancement of socially and educationally backward classes or for Scheduled Castes and Scheduled Tribes. However, the Constitution does not mandate that reservation for socially backward classes must be provided in every field. Moreover, the division of society based on caste or creed contradicts the fundamental principles of Sikhism. Guru Nanak Dev Ji, the founder of the Sikh religion, always advocated for a casteless society. The philosophy of Sikh religion emphasizes on Oneness of all human beings.

The Sikhism founded by Shri Guru Nanak Dev Ji underscores the importance of principle 'Ek Noor Te Sab Jag Upjya'-which signifies that from one light, i.e. from a universal source, the entire universe is made of. The initial word in Shri Guru Grant Sahib Ji is 'IK ONKAR', which denotes that there is only one 'Universal Creator' i.e. 'God' referred to as 'Onkar'. It also implies oneness in all forms of mankind. Sikhism abides by its philosophies and tenets and the practice of Langar is the best example of oneness, Langar Halls are one of those places where everyone is treated equally and offered a meal; where attendees sit on floor and eat simple food. Furthermore, representation for socially backward classes, including Scheduled Castes, Scheduled Tribes, backward classes, and women, has been ensured through co-opted members, as envisaged in Section 4(b) of the Act of 2014.

3.12 It is significant to note seeking reservation on the basis of caste and gender, for the purpose of elections in a Sikh religious institution will go against the irreproachable philosophy of Sikh religion. A writ of mandamus cannot be issued to compel a body or the State to provide for reservation.

3.13 The Hon'ble Supreme Court in **Gulshan Parkash vs. State of Haryana, (2010) 1 SCC 477**, held that writ of mandamus cannot be issued to the state in order to provide for reservation to a particular community. Once a conscious decision has been taken by the competent authority, it is not for the court to interfere. Every competent authority is entitled to take its own decision with regard to reservation depending upon various factors. Similarly, in **Central Bank of India vs. SC/ST Employees Welfare Association (2015) 12 SCC 308**, the Court held that Article 15 and 16 empowers the State to take affirmative action in favour of SC/ST category

persons by making reservation for them, however, the same are only enabling provisions which permit the State to make provisions in favour of these category of persons. The courts cannot issue any writ to the State to make necessary provision. Similarly, in **The State of Punjab vs. Anshika Goyal and others, (2022) 3 SCC 633**, the court reiterated the aforesaid view and set aside High Court's judgment.

3.14 There is also no substance in the submission that the 'Symbol Order' is in violation of Representation of the People Act, 1951. It may be noted here that the Representation of the People Act operates in entirely different field i.e for election of Parliament and Legislative Assemblies and the aforementioned Act is not applicable to elections conducted in the religious bodies/organizations. The entire scheme of the Act is for making provisions for holding elections of Parliament, Assembly constituencies. A seven Judge Bench of the Supreme Court in **Abhiram vs. C.D.commachen (Dead) by LRs and Others (2017) 2 SCC 629**, in para 74 has held as under:-

“The upshot of the above discussion clearly is that under the constitutional scheme mixing religion with State power is not permissible while freedom to practice profess and propagate religion of one’s choice is guaranteed. The State being secular in character will not identify itself with any one of the religions or religious denominations. This necessarily implies that religion will not play any role in the governance of the country which must at all times be secular in nature. The elections to the State legislature or to the Parliament or for that matter or any other body in the State is a secular exercise just as the functions of the elected representatives must be secular in both outlook and practice. Suffice it to say that the Constitutional ethos forbids mixing of religions

or religious considerations with the secular functions of the State. This necessarily implies that interpretation of any statute must not offend the fundamental mandate under the Constitution. An interpretation which has the effect of eroding or diluting the constitutional objective of keeping the State and its activities free from religious considerations, therefore, must be avoided. This Court has in several pronouncements ruled that while interpreting an enactment, the Courts should remain cognizant of the Constitutional goals and the purpose of the Act and interpret the provisions accordingly.”

3.15 Moreover, the symbol order is statutory because it was issued in accordance with enabling power under Section 13 of the Act of 2014. In absence of infringement of a constitutional guarantee or the Act of 2014, its validity is not required to be examined in isolation.

4. **Decision**

4.1 For the foregoing discussion, the challenge in all the writ petitions is found without substance. Hence, dismissed.

4.2 All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

10th January, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No