102 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of Decision: 25.02.2026

1. CWP-4786-1993 (O&M)

Makan Dharamshala Kansiwala ...Petitioner

Versus

State of Punjab and Others ...Respondent(s)

2. CWP-15709-2000 (O&M)

Makan Dharamshala Kansiwala ...Petitioner

Versus

State of Punjab and Others ...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Tushar Sharma, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

Mr. Kamal Chaudhary, Advocate for
Mr. Ankur Jain, Advocate
for respondents No.6(i), (ii), 8, 11(iii) and (iv).

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from ***CWP-4786-1993.***

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders passed by Revenue Authorities whereby respondent has declared its land as surplus land.

3. The petitioner claims that it is a religious and charitable institution of Udasin Sampradai and holds large property in the form of buildings, land, houses, shops and dharamshalas in different parts of the country. Sanction regarding appointment of its Mohatmim is accorded by Government. The petitioner owns a dharmashala in Village Salina, Tehsil Moga which was built more than 120 years back for religious teaching, free food and boarding to general public. The land was donated to institution by Zamindars.

4. The Special Collector, Chandigarh vide order dated 22.04.1960 under Punjab Security of Land Tenures Act, 1953 (for short '1953 Act') declared petitioner's 20.13 standard acre land situated in Village Salina as surplus. In the Act, there was no provision exempting religious and charitable institutions. There was provision exempting religious institutions in PEPSU Tenancy and Agricultural Lands Act, 1955 (for short '1955 Act').

5. Learned counsel representing the petitioner submits that land of petitioner was declared surplus under 1953 Act vide order dated 22.04.1960. Leaving aside possession, order of allotment was passed after coming into force Punjab Land Reforms Act, 1972 (for short '1972 Act'). As per Full Bench judgment of this Court in '***Ranjit Ram Versus Financial Commissioner Revenue', AIR 1981 P&H 313*** in case land declared surplus under Punjab Law or PEPSU Law is not utilized prior to coming into force 1972 Act, fresh order is required to be passed in terms of Sections 4 and 5 of 1972 Act. The petitioner is a religious and charitable institution and as per Section 14, its land cannot be declared

surplus. This issue needs to be examined afresh.

6. *Per contra*, learned counsel for the respondents submit that land in question was declared surplus prior to 1972 Act. At that point of time, no religious and charitable institution was excluded from the purview of 1953 Act. Land of petitioner was declared surplus under 1953 Act, thus, authorities rightly declared land in question as surplus. The petitioner, in any case, does not fall within definition of "religious or charitable institution". The petitioner never challenged order whereby its property was declared surplus. The order declaring land in question as surplus has attained finality.

7. Heard the arguments and perused the record.

8. From the perusal of record, it is evident that petitioner's land was declared surplus vide order dated 22.04.1960. Said order was never challenged. The land was declared surplus under 1953 Act which was repealed by 1972 Act. Land in question was neither allotted nor transferred to private respondents prior to 1972 Act. The petitioner is claiming that it is still having possession over the alleged surplus land.

9. A full Bench of this Court in ***Ranjit Ram (supra)*** has held that where land is declared surplus under 1953 Act or 1955 Act, however, is not utilized prior to coming into force 1972 Act, fresh order is required to be passed considering scope and ambit of Sections 4 and 5 of 1972 Act. Relevant extracts of the judgment read as:

> *"As already observed, even if the land of a land-owner has been declared surplus, either under the Punjab law or under the Pepsu law, and if the land of land-owner has not been utilised and further has not been purchased*

by the tenants in case of Punjab Law, and if the land-owner has not been dispossessed by the Government under the provisions of the Pepsu Law, he continues to be a landowner of the land and also holds the same even though his land has been declared surplus, till he is divested of its ownership by taking possession of the land under section 8 of the Reforms Act, where it has been provided that the surplus area declared as such under the Punjab Law or the Pepsu Law which has not been utilised till the commencement of the Reforms Act, shall on the date or the date on which the possession thereof is taken by or on behalf of the State Government, vests in the State Government free from all encumbrances. It would thus be seen that such landowners' surplus area shall vest in the State Government under section 8 of the Reforms Act and till then the landowners are not divested of the ownership of the surplus land. Thus, if a land-owner owns or holds land which is beyond the permissible area as defined under sections 4 and 5 of the Reforms Act, his case shall have to be processed again by the Collector and the determination of the permissible area and the surplus area has to be according to the mandate of section 4 and 5 of the Reforms Act. Sub-section (1) of section 4 of the Reforms Act contains a clear bar that no person shall own or hold land in excess of the permissible area and when the case is re-processed by the Collector, the permissible area as provided for the sections 4 and 5 of the Reforms Act has to be allowed to the landowner. It may be observed that the permissible area as defined under sub-section (2) of section 4 of the Reforms Act is subject to the provisions of section 5 of the Reforms Act. This is so because a clear provision has been made to this effect in sub-section (1) of section 4 of the Reforms Act. Under Section 5 of the Reforms Act if a landowner has an adult son he shall also be entitled to select separate permissible area in respect of such son out of the land owned or held by him, subject to

> *the condition that the land selected together with the land already owned or held by such son, shall not exceed the permissible area of each such son. It would thus be seen that merely because the case of a landowner had already been processed under the Punjab Law or the Pepsu Law would not be a bar for the application of the provisions of section 4 read with section 5 of the Reforms Act. The provisions of sub-section (1) of section 5 of the Reforms Act entitle the landowner to select permissible area for his adult son from the land owned or held by him in addition to the permissible area of the family. It is clear that the rest of the provisions made in sub-sections (1) and (2) of section 5 of the Reforms Act are procedural."*

10. The land of petitioner was declared surplus under 1953 Act. As per Full Bench Judgment of this Court, matter needs to be re-examined in the light of 1972 Act because declared surplus land was not utilized prior to coming into force 1972 Act.

11. Learned counsel for respondents are claiming that status of petitioner as 'religious or charitable institution' has already been examined by Appellate Authority. The petitioner is claiming that its status has not been examined in true spirit by Competent Authority.

12. In the light of Full Bench judgment of this Court, matter needs to be remanded to Authorities to pass fresh order under 1972 Act. Accordingly, impugned orders are set aside and matter is remanded back for fresh consideration. The matter is pending before Authorities for last more than 06 decades. The respondents are claiming that remand of matter to Collector would entail fresh time-consuming litigation, thus, it should be remanded to higher authority. There is substance in their

submission. Thus, to cut short the litigation, the matter is remanded to Financial Commissioner who is highest authority of the Revenue Department. It is made clear that Financial Commissioner would be free to seek reports from the Authorities below, however, shall not further remand the matter to Authorities below. The petitioner and respondents including private respondents would be free to put forth their stand and raise all available pleas before Financial Commissioner. At the first instance, the parties would appear before Financial Commissioner on ***16.03.2026*** and thereafter as directed by him. The Financial Commissioner would endeavour to expedite the matter and preferably complete the proceedings within six months from today. The parties shall maintain *status quo* till the passing of order by Financial Commissioner.

13. ***Disposed of***.

14. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

25.02.2026
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No