
(1997) 04 P&H CK 0028

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1360 of 1981

Guru Gobind Singh Educational Trust

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 01-04-1997

Acts Referred:

Constitution of India, 1950 — Article 31
Punjab Guru Gobind Singh Medical College, Faridkot (Acquisition) and Miscellaneous Provisions Act, 1978 — Section 3

Citation : (1997) 116 PLR 731 : (1997) 4 RCR(Civil) 53

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : Harbhagwan Singh and Arun Walia, for the Appellant; M.L. Sarin, A.G. and D.S. Dhillon, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—This petition was filed challenging the Punjab Guru Gobind Singh Medical College, Faridkot (acquisition) and Miscellaneous Provisions Act, 1978 and the Act which was passed later by the Legislature replacing the ordinance. As the ordinance was replaced by the Act, the challenge only survives in respect of the Punjab Guru Gobind Singh Medical College, Faridkot (Acquisition) and Miscellaneous Provisions Act, 1978.

2. The petitioner is a trust which was formed to promote education. As per the objects of the Trust which has its office at Delhi, the Trust set up Medical College at Faridkot and huge funds have been raised by the Trust from the public as well as from the Punjab Government and also from Central Government. The Punjab University also granted affiliation to the Medical College in 1976 and allowed the Trust to make fresh admissions of 60 students for the academic year 1976-77. College was inspected by a Committee and found that the Medical College was having all the necessary facilities and it was making satisfactory progress. It is also averred that the Punjab Government sanctioned a grant of Rs. 15 lacs in the

years 1973 to the Trust and also sanctioned a grant of Rs. 20 lacs on 30.3.1976. It is also stated that a sum of Rs. 23,32,000/- was also granted by way of reimbursement of tuition fees. According to the petitioner, the trust acquired the land and constructed the building for the college and provides other infrastructure. An hospital was also proposed to be constructed in the year 1976 by the Trust. According to the petitioner, the Punjab Government wrote a letter to the Trust stating that it was difficult for a private organisation to establish a Medical College and that the Government was unable to provide special grant to the College and required the Trust to consider its resolution dated 6.7.1976 regarding the handover the Medical College to the Government. After this letter, the trust passed a resolution unanimously not to hand over the Medical College to the Government. But thereafter because of change in political scenario in the State, the Trust agreed for taking over the Medical College to the Government. The Secretary of the Trust also wrote a letter to the Government of Punjab for expediting the taking over the Medical College. Thereafter, the Governor issued an Ordinance bearing No. 12 of 1978 taking over the said Medical College w.e.f. 14.12.1978. The said Ordinance were replaced by an Act of 32 of 1978. According to the petitioner alongwith Medical College, other properties of the Trust were also taken over by the Government contravening the provisions of the Act. Therefore, the action of the Government in taking over the property of the Trust other than the Medical College and its building is illegal and not according to law. Petitioner, therefore, seeks quashing of the Act on the ground that it is violative of the Fundamental Rights of the petitioner guaranteed under Articles 14 and 19 of the Constitution of India. Alternatively, to quash clause "C of Section 3 of the Act as being violative of Article 14 of the Constitution of India. The petitioner is also seeking writ of mandamus directing the respondents not to acquire the Trust property.

3. State of Punjab filed a written statement contending inter alia that most of the funds for establishing the Medical College came from the Government and the petitioner did not have wherewithal for providing proper facilities for running the Medical College. It is also stated that the land on which the buildings for the College were built, belong to the Government and the Government provided funds and necessary infrastructure and the Trust was not able to incur any expenditure for the running of the College. It is also averred that the Trust did not receive any donation from any public and the donations which have been received by it are only from the Government and the Government Agencies like Agriculture Marketing Board. High Court of Punjab directed the State Government to reimbursement to the Marketing Board and Marketing Societies to the extent of the contribution made by the Board and the Societies to the Guru Gobind Singh Medical College, Faridkot. It was not possible for the Government to sanction huge amount to the Medical College as the Trust was not able to run the Medical College from its own source. The then Chief Minister of Punjab was also the Chairmen of the Trust and suggested for taking over the College by the Government. Accordingly, the Government with the approval of

the Chief Minister and the Chairman of the Trust wrote a letter dated 8.3.1977 to the Trust asking it to re-consider the earlier resolution passed on July 6, 1976 not to hand over the College to the Government in view of the precarious financial position of the trust. Thereafter, the Trust passed a resolution on 17.4.1977 agreeing for taking over the Medical College by the Government. Thereafter, the Ordinance No. 12 of 1978 was issued by the Governor which was subsequently replaced by the Punjab Guru Gobind Singh Medical College, Faridkot (Acquisition) and Miscellaneous Provisions Act, 1978. In pursuance of the provisions of the Act, the property, assets and buildings of the College at Faridkot, Chandigarh and Delhi were taken into possession. It is further averred that no Fundamental Rights of the petitioner were violated or infringed. It provides that taking over the Trust and the College, the provisions of the Act do not infringe any rights of the Trust and, therefore prays that writ petition be dismissed.

4. The petitioner is challenging the vires of the Punjab Guru Gobind Singh Medical College, Faridkot (Acquisition) and Miscellaneous Provisions Act, 1978 on the ground of malafides that the Provisions of the Act violates the fundamental rights of the petitioner. Section 3 of the Act is the main provision under which the Medical College and its properties stands transferred and vest in the State. Section 3 of the Act reads as follows:-

"Guru Gobind Singh Medical College, Faridkot to vest in State Government; (1) On the appointed day, the Guru Gobind Singh Medical College together with:-

(i) all lands, on which the said College stands, and all other lands appurtenant thereto and all buildings, erections and fixtures on such lands;

(ii) all furniture equipments, stores, apparatuses and appliances, drvgs, moneys and other assets of the said College;

(iii) all other properties and assets, movable and immovable including leases pertaining to the said Collage and all rights, powers authorities and privileges, cash balances, reserve funds investments and all other rights and interests in, or in relation to, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power of control of the trust constituted under the trust deed or of the trustees or any other person in charge of the management of the affairs of the said College; and

(iv) all borrowings made by, or on behalf of, and all other liabilities and obligations of whatever kind, incurred in relation to the said College and subsisting on the appointed day, shall stand transferred to and shall vest absolutely in the State Government.

(2) Every deed of gift, endowment, bequest or trust or other document in relation to all or any of the properties, and assets, referred to in Sub-section (1), shall, as from the appointed day, be construed as if it were made or executed in favour of the State Government.

(3) Subject to the other provisions contained in this Act, any property referred to in Sub-section(1), which by virtue of the provisions of that Sub-section, has vested in the State Government, shall by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and other encumbrances affecting it, and any attachment, injunction or any decree or order of any court or tribunal restricting the use of such property in any manner shall be deemed to have been withdrawn.

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the appointed day, by or against the trustees or any other person, in relation to the said College, may, as from the appointed day, be continued and enforced by or against the State Government as it might have been enforced by or against the trustees or such other person if this Act had not been enacted, and shall cause to be enforceable by or against the trustees or such other person."

5. Section 4 provides payment of a sum of Rs. 11,000/- for the transfer and vesting of the Punjab Guru Gobind Singh Medical College, Faridkot in the State Government. It is now settled law that no malafide can be attributed to the Legislature and the Act cannot be challenged on the ground of malafides. It has been held by the Supreme Court in K. Nagaraj and Others Vs. State of Andhra Pradesh and Another, , as follows:-

"The Legislature as a body, cannot be accused of having passed a law for an extraneous purpose. Its reasons for passing a law are those that are stated in the Objects and Reasons and if, none are so stated, as appears from the provisions enacted by it. Even assuming that the executive, in a given case, has an ulterior motive in moving a legislation, that motive cannot render the passing of the law malafide. This kind of transferred malice is known in the field of Legislation."

6. The ground of attack that the Act was passed with a malafide intention is not | available to the petitioner.

7. The next ground of attack is that the Act is violative of fundamental rights of the petitioner guaranteed Under Sections 14, 19 and 31 of the Constitution of India. The Legislative competence to enact the law is not questioned. It is not shown how the fundamental rights under Article 14 of the Constitution of India is infringed by the enactment. The petitioner is a Trust and not a citizen as such. Therefore, the ground of attack that the Act infringes the fundamental rights of the petitioner under Article 19 of the Constitution, cannot be sustained.

8. The learned counsel for the petitioner contended that the payment of compensation of Rs. 11,000/- as provided in Section 4 of the Act is too meagre and does not represent the just compensation for the properties acquired and, therefore, it will be seen that while enacting the provisions, the Legislature has taken into account that the money with which the College's buildings were constructed came from the Government by way of grant-in-aid and also from the

contributions made by the Governmental Agencies. This fact has been admitted by the petitioner in the petition itself. Further, the fact the instrumentalities of the State Government like Marketing Committees and Marketing Boards have also contributed substantial amount to the Trust for the purpose of establishing and running the College. This fact is borne out by the judgment of this Court in Hanuman Dall and General Mills, Hissar Vs. The State of Haryana and Others, wherein the contribution made by the Punjab State Agriculture Marketing Board and the Marketing Committees to the Medical College were held to be illegal. The Punjab Government has written a letter to the Chairman of the Punjab State Agriculture Marketing Board on 22.9.1973 on the subject of contribution towards Guru Gobind Singh Educational Trust, Faridkot for setting up of Guru Gobind Singh Medical College, Faridkot. By the said letter, the Market Committees in the State and State Agriculture Marketing Board have been directed by the State Government to make contribution to Guru Gobind Singh Educational Trust for setting up Guru Gobi; Singh Medical College at Faridkot. Reference to the said letter and the contributions made by the Marketing Committees and the Marketing Board, this Court, in the case referred to above observed as follows:-

"The way the letter dated October 22, 1973, was issued by the Punjab Government clearly shows that the Punjab Government adopted the baby of the Guru Gobind Singh Educational Trust and became its foster father but instead of making contributions from its own revenues, it called upon the Market Committees and the Marketing Board to make such contributions. The education for which the market committee fund and the marketing development fund can be spent by the Market Committees and the Agricultural Marketing Board should be pertaining to marketing or agriculture and not any other kind of education. The issuance of the letter was, therefore, wholly unauthorised and the Punjab Government forced the market committees and the Agricultural Marketing Board to make the contributions which were wholly outside the purposes of the Act and, therefore, unauthorised and ultra vires. The market committees and the Agricultural Marketing Board cannot make any contributions to Shri Guru Gobind Singh Educational Trust for setting up of the Guru Gobind Singh Medical College in pursuance of that letter which is quashed."

This Court in the above mentioned case further, directed the State Government to re-imburse the Marketing Committee and the Agricultural Marketing Board the amount which they have contributed to Guru Gobind Singh Medical College, Faridkot.

9. Thus, it is clear that the money spent by the Trust in establishing and running the Medical College came from the public exchequer. The petitioner is not able to show anything that they collected any money from the public for establishing and running the Medical College at Faridkot. It cannot be said that the Trust has been deprived of its property by virtue of Section 3 of the Act for payment of just compensation.

10. I do not, therefore, find that impugned Act violates Article 31 of the

Constitution which was in force at the time of passing the Act. In this view of the matter, it is necessary for me to decide the question whether the State Government can take over the properties of the Trust without payment and just composition under Article 300-A of the Constitution of India which came into force after passing of the impugned enactment.

11. The next contention of the learned counsel for the petitioner is that under the guise of Section 3 of the Act, the State Government not only has taken the properties of the College, but also the other properties belonging to the Trust. It is no doubt true that the Act does not permit to take over the property of the Trust. It permits only to take-over the Guru Gobind Singh Medical College. The Government took over all the buildings, land, furniture, equipments and other assets of the College and other properties pertaining to the said College. The Act was never intended to take over the properties of Guru Gobind Singh Educational Trust. Therefore, if any of the properties not belonging to the said College were taken over by the Government, such Act is not protected by the impugned enactment. There is no evidence before me that what properties belonging to the Trust other than the properties belonging to the College were taken over by the Government. In this proceeding, it is not possible to decide whether the Government has taken over any other properties other than the properties belonging to the College covered by Section 3 of the Act. It is a question of fact to be decided on the basis of evidence. I am, therefore of the view that the proper course for the petitioner is to approach the Government to release the properties of the Trust not belonging or pertaining to the College if they have taken over by placing such proof. It is also open to the petitioner to take such steps as are available to him under law for the recovery of the properties taken over by the Government u/s 3 of the Act if those properties do not belong to the Medical College, if so advised. Writ petition stands dismissed of in the above terms.