

(1989) 08 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 2294 of 1989 (O and M)

Harinder Singh

APPELLANT

Vs

Sikh Gurdwara Judicial Commission and Another

RESPONDENT

Date of Decision : 30-08-1989

Acts Referred:

Constitution of India, 1950 — Article 227
Sikh Gurdwaras Act, 1925 — Section 43, 60, 62

Citation : (1990) 97 PLR 512

Hon'ble Judges : G.R. Majithia, J

Bench : Single Bench

Advocate : Ashok Bhan and A.K. Mittal, for the Appellant; H.S. Mattewal and B.S. Guliani, for the Respondent

Final Decision : Dismissed

Judgement

G.R. Majithia, J.—The petitioner has moved this petition under Article 227 of the Constitution of India for setting aside the order of the Sikh Gurdwaras Judicial Commission, Amritsar (for short "the Commission") whereby his application under order 39, Rules 1 and 2 of the CPC filed along with a petition u/s 142 of the Sikh Gurdwara Act (for short "the Act") for a direction to the respondents to issue him the agenda of the meeting as a Senior Vice President of Sharomani Gurdwara Parbandhak Committee, Amritsar (for short "the Board") was rejected.

2. The facts:

The petitioner filed a petition u/s 142 of the Act on the grounds that he was elected as a Senior Vice President of the Board in the year 1986 and due to the detention of the President of the Board he was elected an acting President of the Board and continued as such till March 22, 1989. He submitted his resignation from the office of the acting President and the same was accepted by the Executive Committee on March 22, 1989. He alleged that he did not resign from the office of the Senior Vice President to which office he was elected and his resignation from the office of acting President did not bar him to function as a

Senior Vice President. The Executive Committee of the Board did not send him the agenda of its meeting and this led to the filing of the petition u/s 142 of the Act and an application under Order 39, Rules 1 and 2 of the CPC for an interim direction to the Executive Committee to issue him the agenda of its meeting. The Commission dismissed the application for interim injunction on the ground that there is no office of acting President of the Board and the petitioner, in fact, tendered his resignation from the office of Senior Vice President which was validly accepted by the Committee and he had no right for issuance of an agenda of the meeting of the Executive Committee.

3. The petitioner has challenged this order in a petition under Article 227 of the Constitution of India. The Act is a comprehensive Code. It provides a scheme for purely Sikh management, secured by statutory and legal sanction, for places of worship which are decided either by the Legislature or by an independent Tribunal set up for the purpose. The Management of every notified Sikh Gurdwara is administered by the Committee, constituted under the Act, the Board and the Commission in accordance with Part, III of the Act. The composition and Constitution of the Board is provided for in Section 43 of the Act. Section 62 of the Act provides for office bearers and the Executive Committee of the Board. Section 60 of the Act provides that the President of the Board shall be the chairman at the meetings of the Board and of the Executive Committee and if the President is absent the Senior Vice-President shall be Chairman. If both the President and Senior Vice-President are absent, the Junior Vice President shall be Chairman, and if neither the President nor any Vice President is present, the members present shall elect one of themselves to be Chairman for the purpose of the meeting.

4. The annual general meeting of the Board has to be held every year. The Board has to elect one of its members to be President, two others to be Vice Presidents (one Senior and one Junior) and another to be General Secretary and collectively these will be known as office bearers of the Board and also at the same meeting in like manner has to elect not less than five and not more than eleven of its members to be members of the Executive Committee of the Board. The office bearers and the members so elected shall be collectively be called the Executive Committee of the Board. Combined reading of Sections 43, 60 and 62 of the Act leads to a conclusion that there shall be a Board comprising of a President, Senior Vice President, Junior Vice President and General Secretary, collectively called as office bearers. The Executive Committee of the Board will consist of not less than five members and not more than 11 members. The elected members as provided u/s 62 of the Act and the office bearers shall constitute Executive Committee of the Board. There is no office of acting Vice President under the Act- The petitioner was Senior Vice President of the Board and on the detention of the President he was asked to perform the duties of the President in his capacity as a Senior Vice President. The office of acting President is not provided for under the Act but the nomenclature is used for administrative convenience. When the petitioner resigned from the office of acting President he has in fact

resigned from the office of Senior Vice President to which office he was elected as stated supra. The petitioner has not objected to the correctness of his resignation but the only contention urged is that he never resigned from the office of Senior Vice President and he only resigned from the office of acting President, consequently he still continues as Senior Vice President. As observed earlier, there is no office of acting President" of the Board under the Act and when the petitioner resigned from the office of acting President he, in fact, resigned from the office of Senior Vice President which was validly accepted by the Executive Committee and no exception can be taken to it.

5. Learned counsel further submitted that his client never resigned from the membership of the Executive Committee and he still continues to be a member of the Executive Committee. The learned counsel is not correct in his submission, The petitioner was holding the office of Senior Vice President and in his capacity as such he was also the member of the Executive Committee of the Board. He was never elected as a member of the Executive Committee as provided u/s 62 of the Act To the contrary the office bearers and the elected members as provided in Section 62 of the Act constitute the Executive Committee of the Board. The petitioner having resigned from the office of Senior Vice President to which he was elected was not entitled to participate in the meeting of the Executive Committee and was not. entitled to the issuance of agenda of the meeting of the Executive Committee, No fault can be found with the order of the Commission.

6. The powers under Article 227 of the Constitution is one of judicial superintendence and cannot be exercised to upset conclusion of facts how so ever erroneous those may be it will be useful to refer to the decision of the Constitution Bench of the apex Court in Waryam Singh and Another Vs. Amarnath and Another, where the principles have been clearly laid down as follows:-

"This power of superintendence conferred by Article 227 is, as pointed out by Harries C. J. in Dalmia Jain Airways Ltd. Vs. Sukumar Mukherjee, . (SB) to be exercised most sparingly and only in appropriate cases in order to keep the Subordinate Courts within the bounds of their authority and not for correcting mere errors."

7. Thus, I do not find that the Commission has not acted within the bounds of its authority. It has correctly dismissed the application filed by the petitioner and I do not find any infirmity in the order and affirm the same.

8. For the reasons aforementioned this revision petition is dismissed. The parties are left to bear their own costs.