
(2000) 10 P&H CK 0108
In the Punjab And Haryana At Chandigarh
Case No : C.R. 1983 of 2000

Joginder Singh and another

APPELLANT

Vs

Baldev Singh and others

RESPONDENT

Date of Decision : 04-10-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2, 151
Constitution of India, 1950 — Article 227
Sikh Gurdwaras Act, 1925 — Section 101, 142, 87, 87(1), 88

Citation : (2001) 1 RCR(Civil) 135

Hon'ble Judges : M.L. Singhal, J

Bench : Single Bench

Advocate : Mr. B.S. Guliani, for the Appellant; Mr. M.L. Saggar, for the Respondent

Judgement

M.L. Singhal, J.—This is a Civil Revision filed under Article 227 of the Constitution of India by Joginder Singh and Puran Singh whereby they have sought the quashing and the setting aside of the order dated 9.5.2000 Annexure P1 passed by Sikh Gurdwara Judicial Commission (hereinafter referred to as the Judicial Commission), Amritsar in case No. 4 of 2000 on its file. They have further sought the setting aside of the observations made by the Judicial Commission in its order dated 9.5.2000 Annexure P2 in case No. 4 of 2000 directing the elected and nominated members to hold meet ing for election of the office-bearers to Gurdwara Salochahal (Achal Sahib) excluding Shiwala Talab Kalan and Shiwala Bhandarian.

2. Facts :

Gurdwara Salochahal (Achal Sahib) excluding Shiwala Talab Kalan and Shiwala Bhandarian is a notified Sikh Gurdwara mentioned at Sr. No. 69 in Schedule I attached to the Sikh Gurdwaras Act, 1925. This Gurdwara is to be managed under the provisions of the Sikh Gurdwara Act. Govt. of Punjab issued notification in the year 1998 for holding elections to the committee of the

management of this gurdwara. Petitioners Joginder Singh, Puran Singh and respondents Balbir Singh, Baldev Singh and Mohinder Singh were elected/nominated as members to the committee-of management u/s 87 of the Sikh Gurdwara Act. 1925. Four members are elected while one member is nominated by me Shiromani Gurdwara Parbandhak Committee. After the I. election and nomination, the State Govt. notifies them u/s 88 of the Sikh Gurdwara Act. Petitioners and respondents No. 1 to 3 were notified by the State Govt. u/s 88 of the Sikh Gurdwara Act to the committee of management of this gurdwara. After the constitution of committee of management, the General Secretary of SGPC is to call its first meeting for election to the office of the President and Vice President of the committee of management u/s 101 of "the Act. General Secretary of the Board i.e. SGPC vide letter No. 87/5909/6-Gur Salochahal dated 11.12.1999 called the meeting of the newly elected/nominated members for election of the President and the Vice President. Vide this letter, meeting was required to be held on 15.12.1999 at 10 AM in the premises of the gurdwara. Newly elected and nominated members were informed about the holding of the said meeting for the election of the President and the Vice President. One executive member of the Board namely Shri Pritam Singh Bhatia respondent No. 4 was also requested to be present. Respondent No. 5 Nirmal Singh/Inspector SGPC was also directed to be present. After the receipt of this letter, meeting was held on 15.12.1999 in the presence of all the elected and nominated members and in the presence of respondents No. 4 and 5 as well. In the said meeting, petitioners were elected as President and Vice President. Proceedings recorded in the proceedings book were signed by all the members, Pritam Singh Bhatia and Gurdwara Inspector i.e. respondents No. 4 and 5. Proceedings of the meeting were duly recorded which is Annexure P-4. Before the committee of management was elected and notified by the State Govt. gurdwara was being managed by Shri Dyal Singh who was appointed as receiver by the Commission.

After the holding of the election to the committee of management of this gurdwara and after the election of the President and the Vice President thereto, the said receiver was to hand over charge to the newly elected office-bearers of the committee of management. Assistant Secretary of the SGPC wrote to the said receiver vide letter No. 87/7354/1 dated 29.1.2000 (Annexure P-5) for handing over charge to the petitioners who were elected as the President and the Vice President of the Gurdwara. Petitioner Joginder Singh vide Annexure P-6 requested the Chairman of the Sikh Gurdwara Judicial Commission, Amritsar that he was duly elected President of the gurdwara and the charge of the gurdwara be got banded over to him from there-ceiver. On 19.1.2000 respondents No. I to 3 filed petition u/s 142 of the Sikh Gurdwara Act, 1925 (Annexure P-7) against the petitioners and respondents No. 1 and 5 where by the prayed that the election of the petitioners i.e. Joginder Singh and Puran Singh as President and Vice President of the committee of management be set aside and they (respondents I to 3) be declared as duly elected President and Vice President of the committee of management with further prayer that they (Joginder Singh and Puran Singh)

be restrained permanently from interfering forcibly or illegally in the management of the affairs of the gurdwara. Petitioners Joginder Singh and Puran Singh filed written statement (Annexure P-8) to the said petition controverting the election of respondents 1 to 2 urging that petition u/s 142 of the Act was not maintainable and their election to the office of President and Vice President and to the committee of management was quite valid having been held u/s 101 of the Act by the General Secretary of the SGPC. Along with petition respondents 1 to 3 filed application under Order 39 rules I and 2 read with Section 151 CPC (Annexure P-9) for the grant of temporary ad- interim injunction restraining (hem i.e. Joginder Singh and Puran Singh from interfering forcibly and illegally into the management of the affairs of the gurdwara. They put in reply (Annexure P-10). Respondents 1 to 3 filed yet another application (Annexure P-11) u/s 151 CPC for obtaining an order for election to the office of President and Vice President of the committee of management of this gurdwara. They filed reply to this application (Annexure P-12). Commission vide order dated 25.4.2000 (Annexure P-13) dismissed the application under Order 39 rules 1 and 2 read with Section 151 CPC as not pressed. On the application (Annexure P-11), the Commission held this application as not maintainable u/s 151 CPC at this stage and dismissed the same as not maintainable but the concluding lines of the Order Annexure P2 granted the relief for holding elections of the office-bearers i.e. President and Vice President and passed a separate detailed order Annexure P-1.

3. Through this civil revision, Joginder Singh and Puran Singh petitioners have challenged orders Annexure P-1 and P-2 on ground, inter alia, that there is no provision in the Act for calling any other meeting for election of the President and Vice President to the committee of management of the gurdwara except the one u/s 101 of the Act. In view of this specific provision, the procedural law cannot be invoked. No discretion could be exercised by the Commission u/s 151 CPC. Commission has acted against the provisions of the Act and has over-stepped the limits of its power and jurisdiction. Commission is not authorised/competent to pass any such order. General Secretary of the SGPC vide letter Annexure P-3 called the first meeting of the members of the committee on 15.12.1999 for elections of the President and Vice President. One executive member of the SGPC and the Gurdwara Inspector of the SGPC were deputed for the holding of the election of the President and Vice President, All the members of the committee of management were present. They marked their presence in the proceedings book and the elections were held unanimously. Proceedings recorded in the proceedings book were attested by respondents 4 and 5. Respondents 1 to 3 were barred and estopped by their own act and conduct from filing application u/s 151 CPC separately when all the newly elected members were present in the meeting on 15.12.1999 and affixed their signatures in the proceedings book in token of the presence in the meeting. Respondents 4 and 5 were also present and they also signed the proceedings book in token of their presence and approval/confirmation of the proceedings.

4. Gurdwara Salochahal (Achal Sahib) excluding Shi-wala Talab Kalan and Shiwala Bhandarian is a notified Sikh Gurdwara mentioned at Serial No. 69 in the Schedule I attached to the Sikh Gurdwara Act, 1925. SGPC is the committee to manage of all such gurd-waras as are mentioned in Section 85 of the Sikh Gurdwaras Act, 1925. There are other two types of gurd-waras as mentioned in Section 87 of the Act. In respect of those gurdwaras, the annual income of which is less than Rs. 1 lac, SGPC is to nominate the committee of management. If income of gurdwara is more than Rs. 1 lac, the State Govt. is to hold election for electing the committee of management by constituting constituents. After elections, the State Govt. is to notify the duly elected committee of management u/s 88 of the Act. So far as income of this gurdwara is concerned, it is more than Rs. 1 lac and, therefore, the State Govt. ordered election for electing the committee of management of this gurdwara. This gurdwara was earlier under the control of the receiver appointed by the Sikh Gurdwara Judicial Commission. This receiver was committee of management. In October 1998, elections were held to the committee of management of this gurdwara. Petitioner No. 1 and respondents 1 to 3 were elected and notified by the State Govt. Petitioner No. 2 was nominated by the SGPC. Petitioner No. 2 belongs to scheduled caste. u/s 87 of the Act, every committee shall consist of 5 members out of which one at least shall be a person belonging to the scheduled castes. This became the committee of management irrespective of nomination or election. Section 101 of the Act lays down that every committee shall at its first meeting, which shall be called by the General Secretary of the Board or any person specially authorised by him in this behalf, within 60 days of the constitution of the Committee, elect a member to be President and another member to be Vice President and each of the members so elected shall hold office during the continuance of the committee or until he resigns or ceases to be member of the committee. It was submitted by the learned counsel for the petitioner that in view of the provisions of Section 101 of the Act after the constitution of committee of management, the General Secretary of the SGPC Vide letter No. 87/5909/6-Gur Salochahal dated 11.12.1999 called the meeting of the newly elected/nominated members for the election of the President and Vice President.

Vide this letter the meeting was required to be held on 15.12.1999 at 10 AM in the premises of the gurdwara and the duly elected and nominated members were duly informed about the holding of the said meeting for the election of the President and the Vice President. One executive member of the SGPC Shri Pritam Singh Bhatia respondent No. 4 was requested to be present at the said meeting. Respondent No. 5 Nirmal Singh Inspector, SGPC was also directed to be present at the said meeting. After the receipt of this letter meeting was held on 15.12.1999 in the presence of all the elected and nominated members and also in the presence of respondents 4 and 5. It was submitted that petitioners 1 and 2 were duly elected as President and Vice President respectively of the committee of management of this gurdwara. It was submitted that proceedings recorded in the proceedings book were duly signed by all the members and Pritam Singh

Bhatia and Nirmal Singh Inspector SGPC as well. Annexure P4 is the copy of the proceedings of that meeting. Before the committee of the management was elected and notified by the State Govt., this gurdwara was being managed by Sardar Dyal Singh who was receiver appointed by the Sikh Gurdwara Judicial Commission, Amritsar. After the holding of the elections and the election of the President and Vice President of the committee of management, the said receiver was to hand over charge to the newly elected office-bearers of the committee of management. It was submitted that Assistant Secretary of the SGPC wrote letter No. 87/7354 dated 29.1.2000 Annexure P-5 to the said receiver Dyal Singh to hand over charge to the petitioners No. 1 and 2 who were the President and Vice President of the gurdwara management committee. Petitioner No. 1 requested the Chairman of the Sikh Gurdwara Judicial Commission vide letter Annexure P6 that as he was duly elected President of the gurdwara, receiver be directed to deliver him the charge of the gurdwara. It was submitted that they were a duly constituted committee of management of this gurdwara notified by the State Govt. and petitioner No. 1 was duly elected President and petitioner No. 2 was duly elected Vice President of the committee of management but respondents 1 to 3 questioned their election as President and Vice President respectively of this gurdwara by filing election petition u/s 142 of the Act before Sikh Gurdwara Judicial Commission, Amritsar praying that their election be set aside and they (Baldev Singh and Balkar Singh respondents 1 and 2) be declared as duly elected President and Vice President of the committee of management and further they (Joginder Singh and Puran Singh) be restrained permanently from interfering forcibly or illegally in the management of the affairs of the gurdwara.

5. It was submitted by the learned counsel for the petitioners that the petitioner No. 1 was elected President of the committee of management of this gurdwara while petitioner No. 2 was elected as Vice President of the committee of management of this gurdwara in a meeting held on 15.12.1999 in Gurdwara Salochahal and, therefore, the Sikh Gurdwara Judicial Commission should not have restrained them from managing the affairs of the gurdwara and directed both the parties i.e. elected and nominated members to hold meeting for the election of the office-bearers under the supervisions of Dyal Singh receiver of gurdwara and in the presence of the local Commissioner appointed by the Judicial Commission should not have made any observation that they are of the firm view that no legal and proper election had been held so far and the management of the gurdwara is being temporarily run by the receiver and for the better management of the gurdwara by the elected committee, independent and fair elections of the office-bearers is a must. It was also submitted that this could not have been done by the Judicial Commission particularly when the respondents had moved an application under Order 39 Rules I and 2 CPC but had withdrawn that application.

6. Learned counsel for the respondents, on the other hand, submitted that no election took place on 15.12.1999 for electing President and Vice President of the Gurdwara managing committee and in fact their signatures were obtained by

representing to them that only their presence would be marked and elections will take place some time after. It was submitted that no meeting was held on 15.12.1999 and Inspector Nirmal Singh informed the respondents that the meeting was being postponed as Pritam Singh Bhatia executive member of the SGPC would not be able to attend the meeting. Thereafter, the respondents and other respectables held a meeting in the presence of the members of the gram panchayat and elected President and Vice President in the said meeting. Proceedings of the meeting were duly communicated to the SGPC. It was submitted that through the news item the respondents came to know that in a fraudulent manner the proceedings of the meeting held on 15.12.1999 had been recorded in the register according to which Joginder Singh was allegedly elected as President while Puran Singh was allegedly elected as Vice President. The respondents made a written complaint to the SGPC on 20.12.1999 Annexure P-3.

In the Daily Punjabi Ajit Jalandhar dated 23.12.1999, a news item appeared (Annexure P-4) condemning the conduct of Inspector Nirmal Singh who had to go back on 15.12.1999 without holding election to the office of President and Vice President of the committee of management of this gurdwara because of his partisan attitude and thereafter, the Sarpanches of 12 villages, Akali leaders and hundreds other respectables elected unanimously Baldev Singh as President, Captain Bal-kar Singh as Vice President and Mohinder Singh Ran-gar Nangal, Joginder Singh and Puran Singh as members to the committee of management and on that occasion Makhan Singh Pardhan Shiromani Akali Dal, Batala City and S.S. Malhi Pardhan, Batala Rural and others were present. It was submitted that the President of the SGPC got the inquiry conducted into the episode and it was found that the alleged proceedings of the meeting dated 15.12.1999 had been recorded in a fraudulent manner. It was submitted that the respondents Baldev Singh, Balkar Singh and Mohinder Singh filed application u/s 142 of the Sikh Gurdwaras Act, 1925 whereby they prayed that Baldev Singh and Balkar Singh be held to be duly elected President and Vice President respectively of the committee of management of this gurdwara and the alleged report dated 15.12.1999 of Pritam Singh Bhatia and Inspector Nirmal Singh, SGPC regarding the election of President and Vice President of the committee of management of the gurdwara showing Joginder Singh and Puran Singh to be President and Vice President be set aside and they (Joginder Singh and Puran Singh) be restrained from interfering forcibly and illegally into the affairs of the management of the gurdwara by Baldev Singh, Balkar Singh and Mohinder Singh, President, Vice President and member respectively of the committee of management of the said gurdwara and Joginder Singh and Puran Singh be directed to restrain themselves from interfering in the management of the affairs of the said gurdwara and Pritam Singh Bhatia be removed from the membership of the SGPC and Nirmal Singh be removed from the office of the SGPC and Pritam Singh Bhatia be disqualified for a period of 5 years from becoming member of the SGPC. It was submitted that this election petition was cognizable by the Judicial Commission u/s 142 of the Act and the Judicial Commission could pass any order by way of

interim arrangement which was essential in the interest of justice. It was submitted that the Judicial Commission passed the order directing both the parties i.e. elected and nominated members to hold meeting for election of the office-bearers.

7. It is true that the Judicial Commission can adjudicate on the validity of the constitution of a nominated committee constituted u/s 87(1)(a) of the Act. In *Jaintti Singli v. SGPC*, 1980 PLR 553, Full Bench of this Court held that Section 142 of the Act is couched in language which seems to have a wide ranging amplitude. It provides that any person having interest in the notified Sikh gurdwara may make an application before the Judicial Commission against the Board or a number of other persons specified therein respect of any alleged malfeasance, misfeasance, breach of trust, neglect of duty, abuse of powers conferred by the Act or any alleged expenditure on the purpose not authorised by the Act and if the same is proved before the Judicial Commission, it may award damages or costs against such a person or body and impose other penalties provided in the said section. It does not seem to be easy to impose any artificial limitation on the relatively wide ranging powers conferred on the Commission by virtue of the provisions of Section 142 of the Act. Section 142 of the Act gives wide powers to the Judicial Commission besides the issue of the committee u/s 87 of the Act. Application u/s 142 of the Act was thus maintainable before the Judicial Commission for questioning the alleged election of Joginder Singh and Puran Singh to the office of the President and Vice President respectively of the committee of management of this gurdwara. In the impugned order, the Judicial Commission has stated that they are of the opinion that application u/s 151 of the CPC at this stage is not maintainable and the same is dismissed. If that was so, learned counsel for the petitioner submitted that the Judicial Commission could not direct the elected and nominated members to hold meeting for election of the officebearers.

8. Looking to the entire pros and cons of the case, I must say that this revision must succeed. This revision is accordingly allowed and the impugned orders Annexure P-1 and P-2 are set aside. Till the disposal of the petition u/s 142 of the Act filed by Baldev Singh, Balkar Singh and Mohinder Singh, there shall be no election for electing office-bearers of this gurdwara. Till the disposal of this petition u/s 142 of the Act, Joginder Singh shall function as President and Puran Singh shall function as Vice President of the committee of management of this gurdwara. Every act relating to the management of this gurdwara by them shall, however, be laid by them before the Judicial Commission. It will be for the Judicial Commission to determine whether Joginder Singh and Puran Singh have been validly elected as President and Vice President of the committee of management of this gurdwara in petition u/s 142 of the Act and this Court shall be deemed not to have expressed any opinion with regard to this aspect of the matter.

9. Revision allowed.