

(2012) 03 P&H CK 0141
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 3888 of 2011 (O and M)

Major (Retd.) Charanjit Singh Rai	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 27-03-2012

Acts Referred:

Citation : (2012) 03 P&H CK 0141

Hon'ble Judges : Ajay Kumar Mittal, J

Bench : Single Bench

Judgement

Ajay Kumar Mittal, J.

C.M. No. 3802 of 2012

1. Short reply filed by way of affidavit of Jarnail Singh Pasricha son of Gobind Singh, Founder Trustee, Montgomery Guru Nanak Educational Trust, Jalandhar, on behalf of respondents No. 4 to 13 along with the application is taken on record subject to all just exceptions. Office to tag the same at appropriate place. C.M. application stands disposed of.

CWP No. 3888 of 2011

The dispute in the present writ petition relates to the use of funds by the Secretary of Montgomery Guru Nanak Educational Trust, Adarsh Nagar, Jalandhar.

As per the averments made in the petition, the sale consideration is being misappropriated and misused by the Secretary of Montgomery Guru Nanak Educational Trust, Adarsh Nagar, Jalandhar, in connivance with Principals of the institutes run by the Trust and a writ of mandamus has been sought to quash action against respondents No. 5 to 13 for collection and operation of unauthorized funds from students without any sanction from competent authority.

2. During the course of hearing, learned counsel for the parties are agreed that the writ petition can be disposed of by consensus.

3. On March 15, 2012, learned Senior counsel for respondents No. 4 to 13 on the basis of instructions had stated that respondents No.4 to 13 concede the prayer made in Clauses (b) and (d) in the writ petition whereby quashing of resolutions dated 27th June, 2005, 28th June, 2005 and 4th July, 2010 vide which the elections to the Managing Committee were held, may be accepted provided the fresh elections of the Managing Committee are held within a time-bound frame and by an independent agency or the Deputy Commissioner. The respondents were required to file an affidavit which has been placed on record today. In Para 4 of the said affidavit, it has been stated as under:

4. That though the deponent states that the meetings held on 27/28.06.2005 and 04.07.2010 as also the decisions taken therein were perfectly legal and valid, however, in order to bring an end to the entire controversy and in larger interest of the Educational institutions and students enrolled therein, the deponent submits the following before this Hon''ble Court:

i) The Constitution of the Society, as was operated even prior to the year 2005 and during the tenure of the petitioner as Chairman of the Trust, there are 5 Founder Trustees and 6 Ordinary Trustees. The Constitution provides that Ordinary Trustees shall hold office for 3 years and after the expiry of the tenure, fresh elections are to be held to elect the ordinary trustees. The electoral college for electing the ordinary trustees comprises of 5 Founder Trustees;

ii) As per the Constitution, the 5 Founder Trustees/Life Trustees and 6 Ordinary Trustees elect office bearers from amongst themselves, again for a tenure of 3 years.

iii) The deponent and others have no objection, if, fresh elections are conducted immediately under the supervision of the Deputy Commissioner of the District or any other officer authorized by him, in which, the 5 Founder Trustees shall first meet and elect 6 Ordinary Trustees from out of the nominations received in terms of the Constitution of the Society.

iv) The body so elected (5 Founder Trustees + 6 Ordinary Trustees) shall then hold elections for the office bearers to manage and administer the affairs of the Trust.

4. Learned counsel for the petitioner states that the petitioner has no objection if the election to the Managing Committee is held on the basis of Constitution registered with the Registrar of Firms and Societies, Punjab, Chandigarh, prior to 2005. It has further been stated that the audit of the accounts should be done by the new Managing Committee again.

5. Learned counsel for respondents No. 4 to 13 have no objection to the aforesaid course. In view of the above, the writ petition is disposed of on the basis of consensus that fresh election to the Managing Committee shall be held by an independent agency or the Deputy Commissioner on the basis of the Constitution which is registered with the Registrar of Firms and Societies, Punjab,

Chandigarh, prior to 27th June, 2005 and the accounts shall be got audited by the New Managing Committee after the elections and the fresh elections be held within two months from the date of receipt of certified copy of this order.