



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 29th OF OCTOBER, 2024

WRIT APPEAL No. 2594 of 2024

SHRI GURU SINGH SABHA INDORE AND OTHERS

Versus

COLLECTOR INDORE AND OTHERS

Appearance:

Shri Narinder Pal Singh Ruprah (through VC) with Shri Aditya Goyal, learned counsel for the petitioner.

Shri Bhuwan Gautam, learned Government Advocate for the respondents / State.

Shri Vijay Kumar Asudani, learned counsel for respondent No.4 / Writ Petitioner.

O R D E R

Per : Justice Vivek Rusia

With the consent of the parties, heard finally.

The appellants have filed the present writ appeal under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaya Peeth Ko Appeal) Adhiniyam, 2005 being aggrieved by the order dated 25.10.2024, whereby the Writ Court has disposed of Writ Petition No.33649 of 2024 by setting aside the order dated 16.10.2024 issued by the Assistant Registrar, Firms & Societies, Indore.

02. Facts of the case in a nutshell are as under:-



2.1. Appellant No.1 / Shri Guru Singh Sabha is a society duly registered under the provisions of M.P. Society Registrarian Adhiniyam, 1973 (in short 'the Adhiniyam of 1973') since 1944. The working of the society is governed under the bylaws which were also framed in the year 1944. Clause 19 deals with the election of Shri Guru Singh Sabha i.e. office bearers of the Society. The last elections were held in the year 2012, in which appellant No.2 was elected as President and since then, no election has been held.

2.2. Shri Akal Takhat Saheb appointed Shri Harpreet Singh Sudan as Chief Election Officer for conducting the election of Shri Guru Singh Sabha. Initially, the election programme was issued and the final voter list with allotment of symbols was done on 19.09.2024 by the Election Officer but polling could not be scheduled.

2.3. The petitioners shri Mahendra Singh & three others approached this Court by way of W.P. No.2805 of 2024 seeking inclusion of their names in the voter list. Vide order dated 07.02.2024, the writ petition was disposed of with a direction to the Registrar / Deputy Registrar / Assistant Registrar of the Firms & Societies to ensure that the voter list is finalized after hearing the parties, and thereafter, the election may be conducted as per the direction issued in this regard by the Assistant Registrar.

2.4. The Assistant Registrar received a letter dated 12.02.2024 from the President / Secretary of the society that they would appear on 15.02.2024 to submit a list of members. Shri Manjeet Singh Bhatia, President & Jasveer Singh Gandhi, General Secretary appeared and presented a list of 11687 members of the society with the submission that the names of petitioners have not been included in the list of members. Thereafter, the petitioners appeared before the assistant



registrar and withdrew their claims/objections. In Vide letter dated 22.02.2024, the Assistant Registrar directed the Election Officer to finalize the list of 11687 members after inviting the objections and complete the election process within 90 days.

2.5. After the aforesaid order, the Chief Election Officer vide notice dated 03.09.2024 published the election programme, according to which the date of publication of the voter list was 07.09.2024, objections were invited from 07.01.2024 to 11.09.2024, the decision was to be taken on their objections and the final publication of the list was scheduled on 12.09.2024. Thereafter, the dates were fixed for the presentation of the nomination paper and finalization of candidates with the allotment of symbols and the date of voting was scheduled for 06.10.2024.

2.6. One Baljinder Singh filed W.P. No.27519 of 2024 on 11.09.2024 seeking compliance with the order passed in W.P. No.2805 of 2024. The writ petition was disposed of with a direction to all the persons of the community to file their objection before respondent No.3 within three days.

2.7. Jagjeet Singh Tuteja & six others (in which appellant No.2 Manjeet Singh Bhatia is one of the petitioners) filed W.P. No.29817 of 2024 on 26.09.2024 impleading Shri Guru Singh Sabha as respondent No.6 challenging the nomination of respondent No.9 therein.

2.8. Thereafter, again Jagjeet Singh Tuteja & five others including Manjeet Singh Bhatia, President as one of the petitioners filed W.P. No.30862 of 2024 on 03.10.2024 seeking a declaration that respondents Nos.8 & 9 are not qualified to contest the election of any post of Shri Guru Singh Sabha, Indore. They also sought a declaration that Harpreeth Singh Sudan has lost the authority to continue as Chief



Election Officer. Vide order dated 04.10.2024, the writ petition was dismissed with liberty to the petitioners to resort to the remedy available to them under the law to challenge the result of the election. The order passed in this writ petition had attained finality as appellant No.2 did not file any writ appeal. Therefore, the election process which was completed as per the election programme dated 03.09.2024 up to 04.10.2024 had become final. Even appellant No.1 / Shri Guru Singh Sabha had no objection till that stage of the process of election completed by the Election Officer up to 04.10.2024 as per the election programme. It is pertinent to mention here that in W.P. No.30862 of 2024, appellant No.2 was one of the petitioners and appellant No.1 i.e. society was impleaded as one of the respondents. Therefore, President Manjit Singh himself with Shri Guru Singh Sabha cannot file a writ appeal. After the dismissal of the aforesaid writ petition, no interference is liable to be made in respect of the election programme dated 03.09.2024.

2.9. The Chief Election Officer vide letter dated 04.10.2024 requested the Collector to provide Police Force and staff for conducting election at four polling centres i.e. Amardas Hall, Choithram Road, Gurunanak Schook, Khandwa Road, Khalsa College, Raj Mohalla and Niranjapur Gurudwara. Vide notice dated 04.10.2024, the Chief Election Officer has postponed the date of polling opining that voting is not possible because of the filing of a number of writ petitions and the law and order situation. The said notice is filed as Annexure-A/4 along with the writ appeal.

2.10. In the aforesaid letter, it is specifically mentioned by the Chief Election Officer that all the objections have already been decided in compliance with the order passed in W.P. No.29817 of 2024 which is



suppressed by the appellants in this writ appeal. Thereafter, the Chief Election Officer wrote a letter dated 26.09.2024 to the Assistant Registrar to provide the list of voters. In reply to the aforesaid letter, an impugned letter dated 16.10.2024 was written by the Assistant Registrar to the Chief Election Officer along with the list of 11687 members and directed him to invite the objections and decide the same by issuing a fresh election programme. This letter became a subject matter of W.P. No.33649 of 2024 filed by Harpal Singh Bhatia.

2.11. On the very first date of the hearing, Shri Amay Bajaj Penal Lawyer appeared on behalf of the State, Shri Vivek Phadke appeared for the Chief Election Officer and Shri Vivek Patwa appeared for Shri Guru Singh Sabha i.e. society. The Chief Election Officer made a statement that all the objections had already been decided and the impugned letter had been issued to thwart the election. The Writ Court disposed of the writ petition by setting aside the order dated 16.10.2024 with a direction to respondent No.4 to conduct the election on 03.11.2024. Hence, the present writ appeal is before this Court.

03. Today this Bench is specially constituted during Diwali Holidays to hear this writ appeal. Shri Vibhore Khandelwal advocate submits that he has also filed W.A. No.2595 of 2024 challenging the order passed by the Writ Court in W.P. No.33649 of 2024 hence we have permitted him to argue and directed the registry to list writ appeal.

04. Shri Ruprah, learned counsel appearing for the appellants submits that there is no final voter list of 11687 members in the record. The letter written by the Assistant Registrar has wrongly been quashed by the Writ Court on the very first date of the hearing without giving any opportunity to file a reply. The Chief Election Officer did not decide on any objection with respect to the voter list, therefore, a fresh



election programme is liable to be issued. Shri Ruprah further submits that the Chief Election Officer is in connivance with the writ petitioner Harpal Singh Bhatia, therefore, he appeared and made a wrong statement before the Court that all the objections had already been decided which is factually incorrect.

05. Shri Vibhore Khandelwal, learned counsel appearing for the appellant in W.A. No.2595 of 2024 submits that the voter list has not been finalized as per Rule 2(b) r/w rule 16 of the Adhiniyam of 1973. The final voter list is not recorded. The jurisdiction of the Writ Appellate Court is only to examine the validity of the order of the Writ Court. Learned counsel further submits that there was no occasion for conducting an election in the last 12 years because every time office bearers were unopposed. Hence, the order of the Writ Court be set aside.

06. We have heard learned counsel for the parties at length and perused the record.

07. In this year as many as five writ petitions and 2 writ appeals have been filed before this Court in respect of the election of Shri Guru Singh Sabha. First W.P. No.2805 of 2024 was decided by this Court on 07.02.2024 by directing the Assistant Registrar, Firms & Societies to ensure that the voter list is finalized after hearing the parties. As per the content of the letter dated 22.02.2024 vide letter dated 12.02.2024, the President & Secretary requested the Assistant Registrar that they appear on 15.02.2024. Relevant content of the order dated 22.02.2024 is reproduced below:-

“दिनांक 12.02.2024 को अध्यक्ष/सचिव की ओर से एक पत्र प्राप्त हुआ कि सदस्यों की सूची दिनांक 15.02.2024 को आपके समक्ष उपस्थित होकर प्रस्तुत करेगे।

दिनांक 15.02.2024 को प्रातः 11: 30 पर मनजीत सिंह भाटिया अध्यक्ष एवं



स. जसवीर सिंह गांधी महा सचिव द्वारा सदस्यों की सूची प्रस्तुत की गई जिसमें 01 से 11687 सदस्यों के नाम अंकित हैं, साथ ही पत्र में यह लेख किया कि इस सूची में याचिकाकर्ता व उसके समान सहजधारी सिखों को सम्मिलित नहीं किया गया है, क्योंकि वे श्री गुरुसिंघ सभा के नियमों के तहत सदस्य नहीं बन सकते। श्री गुरुसिंघ सभा के नियम 01 में यह स्पष्ट है कि केवल सिख ही सदस्य नहीं बन सकते। श्री गुरुसिंघ सभा के नियम 01 में यह स्पष्ट है कि केवल सिख ही सदस्य बन सकता है। नियम 20 (4) जिन सहजधारी सिखों को समिति में सदस्य बनने की इजाजत देता है वह नियम 19 के अंतर्गत 02 विशिष्ट योग्यता वाले को सकते हैं। जिनकी सदस्यता किन्ही कारणों से आवश्यक हो। सभी सहजधारी सिख सदस्य नहीं हो सकते हैं। अतः ऐसे समस्त सहजधारी सिखों के सदस्यता फार्म स्वीकार किये जाने योग्य नहीं है।”

08. The objections submitted before the Assistant Registrar were decided and thereafter, the voter list was sent to the Election Officer. The Election Officer published the election programme on 03.09.2024 and the same is reproduced below:-

दिनांक 03/09/2024

चुनाव कार्यक्रम

दिनांक	विवरण	समय व स्थान
07.09.2024	सदस्यता सूची प्रकाशन प्रातः 11 बजे	मुख्य चुनाव कार्यालय श्री गुरद्वारा इमली साहिब, इन्दौर सहायक फर्म एवं संस्थाएँ इन्दौर संभाग इन्दौर रोटेलाइट भवन
07.09.2024 11.09.2024	सदस्यता सूची पर आपत्ति प्राप्त करना	श्री गुरद्वारा इमली साहिब मुख्य चुनाव अधिकारी कार्यालय समय प्रातः 12:30 से 3:30 तक
12.09.2024	सदस्यता सूची पर प्राप्त आपत्ति का निराकरण कर अंतिम सूची प्रकाशन	श्री गुरद्वारा इमली साहिब समय शाम 4 बजे
14.09.2024 15.09.2024	नियोजन पत्र (नामांकन पत्र) प्राप्त करना	श्री गुरद्वारा इमली साहिब समय सुबह 11 बजे से 4 बजे तक मुख्य चुनाव अधिकारी द्वारा
17.09.2024	नामांकन पत्र की जाँच एवं वैध नियोजन पत्रों की सूची	श्री गुरद्वारा इमली साहिब मुख्य चुनाव अधिकारी कार्यालय समय प्रातः 11 बजे से
18.09.2024	नाम वापसी एवं अंतिम चुनाव लड़ने वाले उम्मीदवारों की सूची का प्रकाशन	श्री गुरद्वारा इमली साहिब मुख्य चुनाव अधिकारी कार्यालय समय प्रातः 11 बजे से दोपहर 3 बजे तक
19.09.2024	चुनाव चीन्हा अवंटन	श्री गुरद्वारा इमली साहिब मुख्य चुनाव अधिकारी कार्यालय दोपहर 3 बजे से 5 बजे तक
06.10.2024	मतदान आवश्यक होने पर	मतदान प्रक्रिया प्रातः 10 बजे से 4 बजे तक
07.10.2024	मतगणना	स्थान (समय प्रातः 10 बजे से परिणाम घोषित होने तक)



09. The Chief Election Officer followed the procedure up to 19.09.2024, which is evident from the document filed in W.P. No.29817 pf 2024 because the said writ petition was filed by appellant No.2 & others challenging the nominations of Harpal Singh Bhatia and Preetpal Singh Hora. At that stage, there was no objection with respect of the finalization of the voter list, neither by Shri Guru Singh Sabha nor by appellant No.2 or by anyone. This election programme has become final. Only the date of polling dated 06.10.2024 was postponed by the Chief Election Officer for want of necessary support from the Collector. Thereafter, the Election Officer unnecessarily wrote a letter to the Assistant Registrar to send the voter list of Shri Guru Singh Sabha which was already available to him. In response to the said letter, the Assistant Registrar sent a list with a direction to invite an objection and issue a fresh election programme. There was no need for the Assistant Registrar to respond to that letter and give direction for the issuance of a fresh election programme. As per the notice issued by the Chief Election Officer (Annexure-A/4), only polling was postponed, therefore, the Writ Court has rightly set aside the order and fixed the date for polling on 03.10.2024 by directing the local administration to provide an adequate amount of police and staff for a free and fair election.

10. The conduct of appellant No.2 and the Chief Election Officer is not appreciable for postponing the entire election by writing a letter. The Assistant Registrar has further reopened the controversy in respect of the voter list by writing a letter, which also gave cause of action for filing these two writ appeals. This election has wasted so much valuable time of the High Court. Let the election process be completed on 03.11.2024 on the basis of the voter list of 11687 members of Shri



Guru Singh Sabha. No fresh election programme is liable to be issued.

11. In view of the above, both the Writ Appeal stands dismissed.

(VIVEK RUSIA)
J U D G E

(VINAY SARAF)
J U D G E

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