

Punjab-Haryana High Court

Shiromani Gurdwara Parbandhak ... vs Ishar Dass on 5 September, 1978

Equivalent citations: AIR 1979 P H 44

Author: S Dewan

Bench: B Dhillon, S Dewan

JUDGMENT S.S. Dewan, J.

1. This is an appeal against the decision of Sikh Gurdwaras Tribunal, Punjab, Chandigarh. The tribunal has held that the institution was a Dera of Udasi Sadhus and not a Sikh Gurdwara within the meaning of Section 16(2)(iii) of the Sikh Gurdwara Act, 1925 (hereinafter called the Act) and accepted the petition with no order as to costs.

2. More than 50 persons claiming to be the residents of village Ghurani Kalan, Tehsil Sirhind, District Patiala, in which the institution is situate, applied to the Government to have the institution taken as a Sikh Gurdwara. They claimed that the institution is known as Gurdwara Guru Granth Sahib. The State Government issued a notification No. 1108-G-P dated March 29, 1963, under S. 7(3) of the Act. The respondent who is the Mahant of the institution forwarded a petition to the Government under S. 8 of the Act that he was a hereditary office-holder of this Dera, that the institution described as Gurdwara Guru Granth Sahib was in fact an Udasi institution in which succession had been from guru to chela and that it was not a sikh Gurudwara within the meaning of S. 16 of the Act. The Government forwarded this petition to the Tribunal for disposal under S. 14 of the Act. Notice was issued to the Committee to enquire whether it wanted to be made a party. The Committee was impleaded and the Tribunal raised the following issues:--

1. Whether the petitioner is a hereditary office-holder?

2. Whether the institution in dispute is a Sikh Gurdwara?

3. Shri Gurcharan Singh, one of the members of the Tribunal, in his judgment dated (sic) Dec., 1965, held that the institution was a Dera of Udasi Sadhus and not a Sikh Gurdwara within the meaning of S. 16(2)(iii) of the Act and accepted the petition with costs. Shri Sarup Singh, the other member of the Tribunal differed from the judgment delivered by Shri Gurcharan Singh, Shri Shamsher Bahadur who was the President of the Tribunal agreed with the findings given by Shri Gurcharan Singh, member of the Tribunal and by a majority decision, the petition was allowed with no order as to costs. Feeling aggrieved, the Committee filed F.A.O. No. 180 of 1966, through Shri G. S. Aulakh, Advocate.

4. Shri Narinder Singh, the learned counsel for the Committee, urged that the majority decision of the Tribunal is wrong on both the issues. He contends that there has been deviation from the line of succession and, therefore, it cannot be said that the petitioner is a hereditary office-holder. In order to appreciate this contention, it is necessary to see how the succession has taken place. Reference may be made to pedigree table Ex.P. 3 attached to the settlement file for the years 1960-61 Bkt. According to this pedigree table, first Mahant of this institution was Brahm Lal and thereafter the office devolved on to Chela Salig Ram. Salig Ram was succeeded by Atma Ram. Atma Ram was

followed by Bhagat Ram. Bhagat Ram died on Sept. 17, 1952, and was succeeded by his Chela Ishar Dass (now petitioner). The objection of Shri Narinder Singh with regard to the succession of the petitioner is that he was nominated to the office and it cannot be said to be a case of succession to the office, Both of these contentions are not well founded.

5. In the present case, it is significant that succession to this institution has been from Guru to Chela right up to the petitioner. The factum of the petitioner being hereditary office-holder is further confirmed from the certified copy of the Jamabandi for the year 1960-61 BK, (Exhibit P.2), besides the oral evidence adduced by him. His status as Chela cannot be disputed. To rebut this documentary evidence of the petitioner, the Committee examined some witnesses who were disbelieved by the Tribunal on the ground that their evidence was inconsistent in material particulars. We have gone through the evidence and do not see any reason to take a different view of the same. The learned counsel for the Committee has not given any specific reasons to make us depart from the assessment of this evidence by the Tribunal. We, therefore, find no merit in the contention of Shri Narinder Singh. In our opinion, the majority decision of the Tribunal on issue No. 1 must be upheld.

6. So far as the second issue is concerned, the contention of Shri Narinder Singh is, that the Tribunal has gone wrong in holding that the institution in question is not a Sikh Gurdwara. Section 16(1) and (2) of the Act which is relevant on the point at issue is as under:--

"16(1) Notwithstanding anything contained in any other law in force, if in any proceedings before a Tribunal it is disputed that a gurdwara should or should not be declared to be a Sikh Gurdwara, the tribunal shall, before enquiring into any other matter in dispute relating to the said gurdwara, decide whether it should or should not be declared a Sikh Gurdwara in accordance with the provisions of sub-section (2).

(2) If the tribunal finds that the gurdwara--

(i) was established by, or in memory of any of the Ten Sikh Gurus, or in commemoration of any incident in the life of any of the Ten Sikh Gurus and was used for public worship by Sikhs, before and at the time of the presentation of the petition under sub-s. (1) of S. 7; or

(ii) owing to some tradition connected with one of the Ten Sikh Gurus, was used for public worship predominantly by Sikhs, before and at the time of the presentation of the petition under sub-section (1) of S. 7; or

(iii) was established for use by Sikhs for the purpose of public worship and was used for such worship by Sikhs, before and at the time of the presentation of the petition under sub-section (1) of Section 7; or

(iv) was established in memory of a Sikh martyr, saint or historical person and was used for public worship by Sikhs, before and at the time of the presentation of the petition under sub-section (1) of S. 7; or

(v) owing to some incident connected with the Sikh religion was used for public worship predominantly by Sikhs, before and at the time of the presentation of the petition under sub-s. (1) of S. 7;

the tribunal shall decide that it should be declared to be a Sikh Gurdwara, and record an order accordingly."

7. This postulates that any one of the five conditioner circumstances as contained in S. 16(2) of the Act has to be proved or the Tribunal is to be satisfied about it before an institution can be held to be a Sikh Gurdwara. In the case in hand there is no evidence if this institution was founded in the memory of any of the ten Gurus or any tradition connected with any of the Gurus. It is not even connected with any tradition of the Sikh religion. It has been clearly established from the record that this institution was founded by Brahm Lal. The petitioner says that he was Udasi. It is also supported by the certified copies of the pedigree tables Exhibits P. 3 and P. 4. Exhibit P. 5 is a certified copy of Khatauni Paimaish. This document reveals that Bhagat Ram Chela Atma Ram Sadhu Udasi of village Ghurani Kalan was owner of certain land. Exhibit P. 10 is a certified copy of the order passed by the Commissioner, Patiala Division in appeal, Tara Singh v. Ishar Dass on 17th Oct., 1956.

This order indicates that on the death of Mahant Bhagat Ram, land measuring 76 bighas and 8 biswas situated in the revenue estate of Ghurani Kalan was mutated in favour of the petitioner vide mutation dated 20th May, 1955. This mutation was, however, set aside by the Collector Fatehgarh Sahib. Mahant Ishar Dass went up in appeal which was allowed by the Commissioner and direction was issued to attest the mutation de novo in accordance with the existing law and provisions of the wajib-ul-Arz of the village and the custom prevailing there. Exhibit P. 13, certified copy of jamabandi of village Ghurani Kalan for the year 1963-64, reveals that Mahant Ishar Dass Chela Bhagat Ram son of Atma Ram Udasi is entered owner of the land attached to the institution in dispute.

All this documentary evidence produced on behalf of the petitioner clearly shows that the institution was a Dera of Udasi Sadhus. It was then urged on behalf of the Committee that the institution was founded by the Sikhs for the purpose of worship as village Ghurani Kalan was predominantly populated by the Sikhs. Even if it is so, that is not of any material consequence. It is well known that Udisis do worship Guru Granth Sahib and its recitation is usually performed. There is no evidence led in the case that this institution was founded by the Sikhs for public worship. Thus the requirements of S. 16(2)(iii) of the Act are not satisfied. It is well settled that before the institution could be declared a Sikh Gurdwara, the requirements set out in the provision have to be satisfied. It is not disputed that the appellant Committee can only succeed if this case falls within the ambit of S. 16(2)(iii).

8. We are, therefore, clearly of the view that the evidence on the record conclusively proves that this is a Udasi institution and was established by the Udasi Sadhus. For the reasons recorded, we affirm the majority decision of the Tribunal on issue No. 2.

9. In the result, we find no merit in this appeal and the same is hereby dismissed. However, in the circumstances of the case, we make no order as to costs.

B.S. Dhillon, J.

10. I agree.

11. Appeal dismissed.