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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8487/2025, CM APPL. 36878/2025 & CM APPL. 36879/2025**
MOHINDER SINGH & ANR.Petitioners

Through: Mr. Viraj Datar, Sr. Adv. with Mr. Tanmay Mehta, Ms. Anunya Mehta, Mr. Naginder B, Mr. Ankit Siwach and Mr. Udit Vaghela, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ORS.Respondents

Through: Mr. Sameer Vashisht, SC, GNCTD with Mr. Dhruv Rohatgi, Panel Counsel, GNCTD, Advs. for R-1 and 2.

Mr. Jaspreet Singh Rai and Ms. Avneet Kaur, Advs. for R-3.

Mr. Peeyoosh Kalra and Mr. Yashwant Singh Baghel, Advs. for R-4.

Mr. N. Hariharan, Sr. Adv. with Mr. Gaurav Kr. Pandey and Ms. P Rekha Angara, Advs. for R-5.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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23.06.2025

1. The present petition has been filed under Article 226 of the Constitution of India, seeking quashing and setting aside of the Gazette Notification dated 04.06.2025, whereby the co-option of the Petitioner Nos. 1 and 2 i.e., Mohinder Singh and Surinder Singh Dara, was withdrawn and instead Respondent Nos. 4 and 5 i.e., Kashmir Singh and Malkeet Singh were



co-opted as members in Delhi Sikh Gurdwara Management Committee ('DSGMC') i.e., Respondent No.3.

1.1. In addition, Petitioners also seeks quashing of the Gazette Notification dated 12.06.2025, which schedules the meeting of the General Body of Respondent No. 3 for 25.06.2025 for conducting the biennial elections to the extent that it seeks to exclude/preclude the Petitioners from participating in the said elections.

Arguments of the Petitioners

2. Learned Senior Counsel for the Petitioners states that the Gazette Notification dated 04.06.2025 is *ultra vires* the Delhi Sikh Gurdwaras Act, 1971('Act of 1971') and the Delhi Sikh Gurdwara Management Committee (Co-option of Members) Rules of 1974 ('Rules of 1974').

2.1. He states that the Competent Authority had no jurisdiction to withdraw the Gazette Notifications dated 26.10.2021 and 18.01.2022, whereby the Petitioner No.1 and Petitioner No.2 were co-opted as members of DSGMC.

2.2. He states that in addition, no prior Show Cause Notice ('SCN') granting an opportunity of hearing was issued to Petitioner Nos. 1 and 2 prior to the issuance of the impugned Gazette Notification dated 04.06.2025.

2.3. He states that W.P.(C) No. 11888/2021 and W.P.(C) No. 11910/2021 were filed by Respondent No. 4 and Respondent No. 5 respectively, challenging the Petitioners' co-option, which remained pending before this Court. He states that in the Counter Affidavit filed by Respondent Nos. 1 and 2, in those writ petitions on 28.11.2021 and 10.12.2021 respectively, Respondent Nos. 1 and 2 herein had opposed the claims of Respondent Nos. 4 and 5 and had reiterated that the co-option of Petitioner Nos. 1 and 2 is legal and valid.



2.4. He states that the W.P.(C) No. 11888/2021 and W.P.(C) No. 11910/2021 was withdrawn unconditionally by Respondent No. 4 and Respondent No. 5 respectively on 06.03.2025 and therefore the challenge to the co-option of the Petitioners came to an end.

2.5. He states that in these circumstances, the issuance of the Gazette Notification dated 04.06.2025 and the subsequent Notification dated 12.06.2025, scheduling the biennial elections on 25.06.2025 is illegal and void.

3. Issue notice.

Arguments of the Respondent Nos.1 and 2

4. Mr. Sameer Vashisht, learned Standing Counsel appearing on behalf of Respondent Nos. 1 and 2 states that the present writ petition is not maintainable in view of an alternative efficacious remedy available to the Petitioners to approach the District Judge for challenging the co-option of Respondent Nos. 4 and 5 under Section 31 of the Act of 1971.

4.1. He states that the Petitioners have suppressed from this Court an additional affidavit dated 22.12.2023 filed by the Respondent Nos.1 and 2 herein in W.P.(C) No. 11910/2021 and W.P.(C) No. 11888/2021, wherein Respondent Nos. 1 and 2 submitted before the learned Single Judge that the co-option of Petitioner Nos. 1 and 2 is invalid and instead Respondent Nos. 4 and 5 are entitled to be co-opted in place of Petitioner Nos. 1 and 2.

4.2. He states that the power of the Competent Authority to issue the Gazette Notification dated 04.06.2025 can be traced under Section 21 of the General Clauses Act, 1897 ('Act of 1897').

4.3. He states that it is a matter of record that no separate SCN was issued to Petitioner Nos. 1 and 2 before issuing Gazette Notification dated 04.06.2025;



however, he states that Petitioners had due notice about the decision of Respondent Nos. 1 and 2, in view of the contents of the affidavit dated 22.12.2023 filed in W.P.(C) No. 11910/2021 and W.P.(C) No. 11888/2021.

Arguments of the Respondent No.5

5. Mr. N. Hariharan, learned Senior Counsel appearing on behalf of Respondent No. 5 states that since the co-option of Petitioner Nos. 1 and 2 was illegal, *void ab initio*, he states that the alleged non-compliance of principles of natural justice would have no effect on the legality of the Gazette Notification dated 04.06.2025.

5.1. He states that the plenary jurisdiction of this Court under Article 226 of the Constitution of India ought not to be exercised in view of the availability alternative efficacious remedy and in this regards he relies upon the judgment of the Division Bench in LPA No. 448/2024 titled **Kawaljeet Singh v. Guru Nanak Institute of Management and Technology and Ors.**¹

Arguments of the Respondent No.4

6. Mr. Kalra, learned Counsel for Respondent No. 4 as well submits that the petition under Article 226 of the Constitution of India is not maintainable in view of the availability alternative efficacious remedy and relies upon the judgment of Supreme Court in **Shekhar Ghosh v. Union of India**², **Union of India v. Narender Singh**³ and **Kusheshwar Prasad v. State of Bihar**⁴.

Arguments of the Respondent No.3

¹2025:DHC:1673-DB.

²2007 (1) SCC 331.

³2008 (2) SCC 750.

⁴ 2007 (11) SCC 447.



7. Mr. Jaspreet Singh Rai, learned counsel states that the registered Singh Sabhas are a necessary party and this petition cannot be entertained in the absence of the said parties.

8. At this stage, Mr. Vashisht, learned Standing Counsel of Respondent Nos. 1 and 2 states that in the event this Court is inclined to grant any interim stay in favour of the Petitioners *qua* the Gazette Notification dated 04.06.2025, then in that scenario Respondent Nos. 4 and 5 may be permitted to cast their votes and their votes can be kept in sealed cover. He states however, the election process which has commenced *vide* Notification dated 12.06.2025 may not be interdicted.

9. At this stage, learned Senior Counsel appearing for the Petitioners states that so also the Petitioners may be permitted to cast their vote in the upcoming election to be held on 25.06.2025 and their votes be similarly kept in the sealed cover.

Directions

10. This Court has heard the learned Counsel for the parties and perused the records.

11. In the facts of this case, there is no dispute that no separate SCN has been issued to the Petitioner Nos. 1 and 2 before issuance of the Gazette Notification dated 04.06.2025. *Prima facie*, in the considered opinion of this Court, the additional affidavit dated 22.12.2023 filed by Respondent Nos. 1 and 2 in W.P.(C) No. 11888/2021 and WP(C) 11910/2021 cannot substitute as a SCN to the Petitioners.

12. Moreover, on a perusal of Section 39 of the Act of 1971 which was earlier referred to by learned standing counsel for the Respondent Nos. 1 and 2 and corresponding Rules of 1974, this Court is unable to read into the said



provisions the power of the Competent Authority to issue the Gazette Notification dated 04.06.2025 in supersession of the Gazette Notifications dated 26.10.2021 and 18.01.2022.

13. The counsels appearing for the parties jointly state that the suggestions made by learned counsel for the Petitioners and learned counsel for Respondent Nos. 1 and 2 for the interim measure, is agreeable to all the parties.

14. Accordingly, with the consent of all the parties, it is directed that Respondent Nos. 4 and 5 will cast their votes at the upcoming biennial elections of Respondent No. 3 and their votes will be kept in a sealed cover. So also, the Petitioners Nos. 1 and 2 will cast their votes at the upcoming elections and their votes will be kept in a sealed cover.

15. Respondent Nos. 1 to 5 are directed to file their counter affidavit within ten (10) days.

16. Rejoinder, if any, be filed before the next date of hearing.

17. List before the Roster Bench on **08.07.2025**.

18. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA
(VACATION JUDGE)

RAJNEESH KUMAR GUPTA
(VACATION JUDGE)

JUNE 23, 2025/gunn/sk