

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

WP(C) No. 1174/2020  
CM Nos. 4944/2020,  
5326/2020, 7420/2020,  
7421/2020, 3401/2020 &  
3606/2020

**Pronounced on: 31<sup>st</sup> .12.2021**

Satinder Singh and anr.

.... Petitioner/Appellant(s)

Through:- Petitioners are present in person.

V/s

U.T. of J&K and ors.

....Respondent(s)

Through:- Mr. S. S. Nanda, Sr. AAG  
Mr. Karman Singh Johal,  
Advocate

**CORAM : HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE**

**JUDGMENT**

**01.** The petitioners seeks quashing of notification dated 13.07.2020 issued by the respondents extending the term of Gurdwara Prabandhak Committees for a period of three months from the date of expiry of their term or till elections are held. They also seek a direction to the respondents to initiate the process of election for electing members of different Gurdwara Prabandhak Committees at the earliest to manage the affairs of the Gurdwaras in UT of Jammu and Kashmir.

**02.** The petitioners are members of the Sikh Community by faith as defined under clause "e" of the Jammu and Kashmir Sikh Gurdwaras and Religious Endowment Act, 1973 (here-in-after referred to as 'the Act'). They are also registered voters in terms of Rule 5 of the Jammu and

Kashmir Sikh Gurdwaras and Religious Endowment Rules, 1975, (hereinafter referred to as 'the Rules').

**03.** The last elections of the District Gurdwara Prabandhak Committees of Jammu and other Districts to look after the affairs of Sikh Gurdwaras were conducted on 08.07.2015 and the tenure of these Committees as per Section 13 of the Act is only five years and the same came to an end on 10.07.2020. The process for elections for constituting new District Gurdwara Prabandhak Committees was required to be initiated before the expiry of the said period, so that the new committees could take charge, start functioning and for managing the affairs of the Gurdwara. The grievance of the petitioner is that the respondents, instead of initiating the process of elections after the expiry of the term of District Gurdwara Prabandhak Committees, issued impugned notification dated 13.07.2020 extending the period of these District Gurdwara Committees for a period of three months from the date of expiry of their term or till elections are held, whichever is earlier.

**04.** The impugned notification SO 218 issued on 13<sup>th</sup> July, 2020 reads as under:

“SO 218:-In exercise of the powers conferred by rule 63C of the Jammu and Kashmir Sikh Gurdwaras and Religious Endowments Rules, 1975 and in suppression of all previous notifications issued on the subject, the Government hereby directs that the members of District Gurdwara Prabandhak Committees of District Shopian, Anantnag, Pulwama, Baramulla, Budgam, Kupwara, Srinagar and Jammu, elected in the year 2015 shall continue as the members of the said committees for a period of three (03) months from the date their terms has expired

are till elections of these Committees are held under the Act and the rules framed there under, whichever is earlier.”

**05.** By the impugned notification dated 13.07.2020, the respondents have granted extension to the tenure of these committees for a period of three months, from the date of expiry of their term or till elections of these committees are held, whichever is earlier. The period of three months also came to an end on 13.10.2020 and thereafter, no further notification in terms of the rules has been issued.

**06.** The petitioners are aggrieved of the aforesaid notification as the same is against the mandate of the Act and the Rules. The respondents had to initiate the process for holding elections to the District Gurdwara Prabandhak Committees and till then, they had to nominate members of the committee by issuing a notification but, that too, only after recording their satisfaction and for reasons to be recorded in writing in terms of Rule-63C of the Rules. Rule-63C of the Rules reads as under:-

**“Rule-63C:** Notwithstanding anything to the contrary contained in these rules, where the term of office of the members of any Committee has expired before holding elections and the Government is satisfied, for reasons to be recorded in writing that it is not reasonably practicable to hold elections to any Committee in accordance with the provisions of the Act and these rules, it may, by notification, nominate the members of the Committee and thereupon the provisions of the Act and these rules shall apply to the members so nominated in the same manner as they apply to the members elected under the Act and these rules;

Provided that the term of office of members of the Committee so nominated shall not exceed one year unless the

Government for reasons to be recorded in writing, considers it necessary to extend the term for further period not exceeding one year at a time.”

**07.** The respondents in terms of the aforesaid Rules could nominate the members to the Committees but before doing so, they had to record their satisfaction by giving reasons which were to be recorded in writing. The term of the Committee could also be extended beyond the period of one year but only if necessary and for reasons to be recorded in writing.

**08.** A bare perusal of the notification dated 13.07.2020 reveals that no reason for recording the satisfaction in writing has been given, while passing the impugned notification. The Government in terms of the Rule-63C of the Act had to nominate the members of the Committee and not to extend the tenure of the Committee after expiry of the term, therefore, the impugned notification, on the face of it, is against the mandate of Rule-63C of the Act. The notification, however, has lapsed with time as it was for a period of only for three months or till elections are held whichever is earlier.

**09.** This Court vide order dated 17.07.2020, while directing the Government to reconsider the matter and take a decision as per Rule-63C of the Act, directed that the exercise of powers of the committees in terms of the impugned notification be supervised and monitored by the concerned Deputy Commissioners.

**10.** Mr. S. S. Nanda, learned Sr. AAG, in his objections, submits that the impugned notification was issued due to covid-19 situation as elections were not possible to be held, therefore, in exercise of powers under the Act,

the committees were granted extension for a period of three months from the date their term has expired or till elections of these Committees are held under the Act and the Rules framed thereunder, whichever is earlier. It appears that the date of elections was notified on 12.10.2021, but same could not be conducted.

**11.** Record reveals that an application on behalf of Sant Pal Singh was filed seeking a direction to defer the elections of Gurdwara Prabandhak Committees till May, 2021. Mr. Nanda, learned Sr. AAG submits that due to outbreak of 2<sup>nd</sup> wave of Covid-19 pandemic and unprecedented situation, the respondents have not conducted the elections which was deferred and any other arrangements, according to him, will be made only after review of the same in consultation with the Divisional Administration.

**12.** The respondents could not have extended the term of the District Gurdwara Prabandhak Committees of various Districts beyond the term of two years in terms of SO 218 as the same is not as per the mandate of Rule-63C of the Rules. In any case, this notification has otherwise also outlived its life as it was only for a period of three months or till elections are held whichever is earlier.

**13.** Since it was not practicable to hold elections, as such, the respondents had to proceed in terms of the Rule-63C of the Rules and nominate the members of the Committee in accordance with the provisions of the Act and the Rules after recording its satisfaction for reasons to be recorded in writing. It is apparent that the members of the erstwhile committee are still continuing to manage the affairs of Gurdwara despite the fact that notification was only for three months and there was no

extension of the same, though in terms of the order of this Court. They are being monitored by the Deputy Commissioner. Their term has expired, they have no right to continue the same.

**14.** The elections to the District Gurdwara Prabandhak Committees have been delayed for more than one and half year and the only reason is that in view of the COVID-19 pandemic as life and working in the Union Territory has come to a halt, therefore, Government did not find reasonably practicable time to hold the elections for any of the committees. It appears that till date, there are neither any validly elected nor nominated Gurdwara Prabandhak Committees in the Districts of the UT of J&K. Though the situation has considerably improved now, and elections to the Gurdwara Prabandhak outside the State are being held, elections to the various States Assembly were also conducted during the intervening period, but the respondents have not deemed it fit to conduct the elections to these committees.

**15.** In view of the aforesaid discussion, Gurdwara Prabandhak Committees which are presently looking after the affairs of the Gurdwara are continuing un-authorizedly in office and cannot not be allowed further to continue in such a manner.

**16.** Keeping in view the administration, superintendence and management of Sikh Gurdwaras and its properties in Union Territory of J&K, Constitution of District Gurdwara Prabandhak Committees is imperative, therefore, to run day to day administration of the Sikh Gurdwaras, the Government shall come up with an appropriate notification in terms of Rule-63C of Rules for constituting/nominating suitable

members to District Gurdwara Prabandhak Committees. The Government shall ensure that none of the members of the erstwhile Committee, whose term has expired, are nominated as members and the Committee be constituted of independent persons of high integrity and social standing within a period of three weeks. The Government may also initiate the process of conducting elections to the Gurdwara Prabandhak Committees of Gurdwaras of the Union Territory, in accordance with the provisions of the Act of 1973 expeditiously.

**17.** Writ petition alongwith connected application(s) is **disposed of** in the aforesaid terms.

JAMMU  
31<sup>st</sup> .12.2021  
MICHAL



**(Sindhu Sharma)**  
**Judge**