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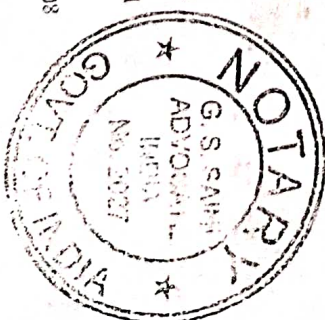
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## Sikh Gurdwara Act, 1925

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notices that the central and management of the hospital was being pressed on to the... is, to our mind, inconsequential. It is also apparent from the narration of the facts... Gurdwara Act of 1925, yet it cannot be overlooked, that after the promulgation of the Gurdwara Act of 1925, the activities, functions, duties and responsibilities of the SGPC came to be fully regulated by the said Act, even the members of the SGPC are to be elected, selected or nominated according to the provisions of the Gurdwara Act of 1925. Since the trust deed constituting the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, was executed on 15.12.1992 i.e. when the functioning of the SGPC had been subjected to the mandate of the Gurdwara Act of 1925, it will be justified to conclude, that the sum of Rs. 60 lakhs, which is being made available annually by the SGPC to the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, must be deemed to flow from the SGPC under section 111 of the Gurdwara Act of 1925. In fact, we have no alternative, but to record the aforesaid conclusion, as the financial activities of the SGPC are fully regulated by the provisions of the Gurdwara Act of 1925. Added to this is the pervasive control of the SGPC over the Sri Guru Ram Das Charitable Hospital Trust, Amritsar.

"Sikh" section 2(9) of the Gurdwara Act of 1925, cannot be the sole basis for interpreting the true connotation of the term "Sikh". - Section 2(9) of the Gurdwara Act of 1925 mandates, that if a question arises whether a person is or is not a Sikh, he will be deemed to be a Sikh, if he files an affidavit in the format stipulated in the aforesaid provision itself. The prescribed format requires the concerned person to affirm that he is a Sikh ("I solemnly affirm that I am a Sikh..."). Would a person who falsely files such an affidavit, have the right to be treated as a Sikh? Undoubtedly, only a true affirmation can lead to such an inference. To be a Sikh, one will have to follow the prescribed tenets of the Sikh religion. Having dealt with the historical background of the Sikh religion, legislative enactments involving the Sikh religion, the tenets of the Sikh religion which have been prescribed in the "Sikh rehah-maryada" (the Sikh code of conduct and conventions), the "Sikh ardas" and the views expressed by scholars of Sikhism, we have already recorded our conclusion above, that retaining hair unshorn is an important and essential tenet of the Sikh religion. We must, however, notice here another aspect of the matter projected before us during the course of hearing. Efforts were made to persuade us to arrive at the conclusion, that a true Sikh must have on his person at all times the five prescribed "kakkars" (articles of faith) or Ks. The five "kakkars" include "kesh/keshas" (unshorn hair), "kiran" (sword), "kacchhara" (knicker bocker), "hara" (steel ring) and "kangha" (comb). Can a person who does not even follow the most basic and elementary requirement of having on his person at all times the five "kakkars", be accepted as a Sikh? The "Sikh rehah-maryada" considers an act of dishonouring hair as the gravest of the tabooed practices, as it is mentioned as the first of such tabooed practices. Can a person who dishonours bodily hair by trimming them or by plucking them, be accepted as a Sikh? Through the "Sikh ardas", a Sikh every morning and evening, and at all important occasions, addresses a prayer to God, seeking besides others, the blessing of retaining bodily hair unshorn to his last breath. Can a person who does not maintain his hair unshorn be accepted to be truthfully a Sikh? In our considered view, only a truthful affirmation in the format depicted under section 2(9) of the Gurdwara Act of 1925, can alone confer the claim of being a Sikh. And that, if the affirmation is untrue, no such inference can be drawn. Needless to mention that an affidavit is a written statement on oath, and as such, an affidavit is acceptable only if it is true. It is not within the scope of the present consideration to determine who is, or is not, a Sikh. We have, therefore, intentionally posed the aforesaid questions.

For a wholesome definition of the term "Sikh" for the purposes of the Gurdwara Act of 1925, sub-sections (9), (10), (10-A) and (11) of section 2 of the Gurdwara Act of 1925, must be read collectively. The nature of the matter has been examined extensively while dealing with the legislative enactments involving the Sikh religion. It is, therefore, not possible to accept the contention that section 2(9) of the Gurdwara Act of 1925, should be the sole basis for interpreting the true connotation of the term "Sikh".

111. General Trust Fund. - Every sum other than a sum specified in section 107, 109 or 110 or sub-section (2) of Section 114 or sub-section (8) of Section 137 shall be placed to the credit of the General Trust Fund out of which the Board in general meeting may from time to time make allotments for the discharge of any obligations legally incurred in connection therewith or for such religious, charitable [industrial], or educational purpose as the Board may consider proper or for grants-in-aid for the maintenance or service of Notified Sikh Gurdwaras.

COMMENTARY

Scope. - The Act envisages establishment of a General Trust Fund. Section 111 provides that every sum other than a sum specified in Sections 107, 109 or 110 or sub-section (2) of Section 114 or sub-section (8) of Section 137 shall be placed to the credit of a fund to be called the General Trust Fund out of which the Board in general meeting may from time to time make allotments for the discharge of any obligations legally incurred in connection therewith or for such religious, charitable, industrial or educational purposes as the Board may consider proper. Section 112 enjoins upon the Board to establish and maintain a separate fund in respect of each trust held in accordance with the provisions of clause (iii) of Section 109 or of Section 110 and may discharge out of each fund any obligations legally incurred in connection therewith. Section 113 provides for deposit of the General funds in the Banks and maintenance of accounts of all trust funds as also the General Board Fund.

112. Separate funds to be maintained for each trust. - The Board shall establish and maintain a separate fund in respect of each trust held in accordance with the provisions of clause (iii) of Section 109 or of section 110 and may discharge out of each fund any obligations legally incurred in connection therewith.

113. Trust funds to be deposited in banks. - (1) Every sum received by the Board in connection with any fund shall be placed to the credit of the fund in such bank as the Board in general meeting may direct.

1. Gurteen Kaur v. State of Punjab, 2009(5) SLR 690 : 2009(3) R.C.R.(Civ) 324 : 2009(3) S.C.T. 165 : 2009(3) P.L.R. 324(F&H)(FB) : Law Finder Doc Id # 195567.  
2. Gurteen Kaur v. State of Punjab, 2009(5) SLR 690 : 2009(3) R.C.R.(Civ) 324 : 2009(3) S.C.T. 165 : 2009(3) P.L.R. 324(F&H)(FB) : Law Finder Doc Id # 195567.

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2. Inseart by Punjab Act 11 of 1944, Section 37.  
3. Miri Piri College Bacheao Sangharsh Samiti v. Shriromani Gurdwara NC, 2009(3) R.C.R.(Civ) 393(F&H)(DB) : Law Finder Doc Id # 196254.  
4. Section 113 renumbered as sub-section (1), and new sub-section (2) added by Punjab Act No. 27 of 1953, Section 2.

[ (2) The Board may invest any portion of its fund in one or more Government securities or Defence Savings Certificates for in purchasing immovable property] and the income or proceeds derived or obtained therefrom shall be credited to the fund from which the investment was made.]

**114. Board to maintain accounts of all trust funds and a General Board Fund.** - (1) The Board shall maintain regular accounts showing receipts on account of and expenditure out of the General Board Fund and separate similar accounts for each fund established under the provisions of section 112 and for the General Trust Fund.

(2) Any person having interest in a Notified Sikh Gurdwara, shall, on application being made to the Board, be furnished with a copy, certified to be correct by the President or other member of the executive committee authorised by the President on this behalf, of the whole or of any specified part of such account.

(3) The Board shall charge for copies of accounts furnished under the provisions of sub-section (1) such fees as are charged for copies of records under the control of Deputy Commissioners of districts under the rules for the time being in force in Punjab.

**115. Audit of accounts.** - (1) The accounts described in section 114 shall be audited and examined once in every year by such auditor as may from time to time be appointed by the [Government of the State of Punjab].

(2) For the purposes of any such audit and examination of accounts the auditor may, by a demand in writing, require from the Board or any member or servant of the Board the production before him of all books, deeds, vouchers and all other documents and papers which he deems necessary and may require any person holding or accountable for any such books, deeds, vouchers, documents or papers to appear before him at any such audit and examination, and to answer all questions which may be put to him with respect to the same or to prepare and submit any further statement which such auditor may consider necessary.

**116. Auditors report.** - (1) Within thirty days after the audit and examination have been completed the auditor shall submit a report to the Board

1. Section 113 renumbered as sub-section (1), and new sub-section (2) added by Punjab Act No. 27 of 1953, Section 2.

2. Inserted by Punjab Act 1 of 1959, Section 36.

3. Substituted for the words "State Government" by Central Government Notification No. S.O. 506(E) dated 26.7.1972.

upon each account audited and examined, and shall forward copies of his reports to the [Government of the State of Punjab] and to the Commission.

(2) The report of the auditor shall among other matters specify all items of expenditure which in his opinion are illegal, irregular or improper, all cases of failure to recover money or property due to the Board, all instances of loss or wasteful expenditure of money or property due to negligence or misconduct and all instances in which any money or property has been devoted to any purpose not authorised by this Act.

<sup>2</sup>(3) Within two months from the date of the consideration of the report under section 117, the Board shall cause the report and abstract of each account to be published in [two newspapers one of which must be published daily].

<sup>4</sup>(4) If the Board fails to cause the report to be published in accordance with sub-section (3), the Commission or the [Government of the State of Punjab] may get it so published, and the expenses incurred in this behalf shall be paid by the Board, and shall be recoverable as if it were an arrear of land revenue.]

<sup>6</sup>[117. Board to consider auditor's report. - The Board in its general meeting next following the date of the receipt of the auditor's report shall consider such report and satisfy itself that no expenditure shown therein has been incurred otherwise than in accordance with the provisions of this Act and shall pass such orders as are in its opinion necessary and proper to rectify any illegal, unauthorised or improper expenditure, and may also, pass such further order upon the report as it may deem proper :

Provided that if the next general meeting falls on a day earlier than two months after the receipt of the report it shall be considered in the general meeting next following].

**118. Payment of expenses of audit.** - (1) The expenses incurred in the audit and examination of the accounts of any fund maintained by the Board in accordance with the provisions of this Act shall be paid out of that fund.

(2) If payment of the expenses referred to in sub-section (1) is not made within three months from the date of the submission of a report as described

1. Substituted for the words "State Government" by Central Government Notification No. S.O. 506(E) dated 26.7.1972.

2. Substituted by Punjab Act 53 of 1953, Section 20(a).

3. Substituted for the words "at least one English and one Vernacular newspaper printed and published, in

the Punjab" by Punjab Act No. 1 of 1959, Section 39.

4. Added by Punjab Act 53 of 1953, Section 20(b).

5. Substituted for the words "State Government" by Central Government Notification No. S.O. 506(E) dated 26.7.1972.

6. Substituted by Punjab Act 53 of 1953, Section 21.

notices that the control and management of the hospital was being passed on to the trustees, to our mind, inconsequential. It is also apparent from the narration of the factual position noticed above, that the SGPCC came into existence prior to the promulgation of the Gurdwara Act of 1925, yet it cannot be overlooked, that after the promulgation of the Gurdwara Act of 1925, the activities, functions, duties and responsibilities of the SGPCC came to be fully regulated by the said Act, even the members of the SGPCC are to be elected, selected or nominated according to the provisions of the Gurdwara Act of 1925. Since the trust deed constituting the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, was executed on 15.12.1922 i.e. when the functioning of the SGPCC had been subjected to the mandate of the Gurdwara Act of 1925, it will be justified to conclude, that the sum of Rs. 60 lakhs, which is being made available annually by the SGPCC to the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, must be deemed to flow from the SGPCC under section 111 of the Gurdwara Act of 1925. In fact, we have no alternative, but to record the aforesaid conclusion, as the financial activities of the SGPCC are fully regulated by the provisions of the Gurdwara Act of 1925. Added to this is the pervasive control of the SGPCC over the Sri Guru Ram Das Charitable Hospital Trust, Amritsar.

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For a wholesome definition of the term "Sikh" for the purposes of the Gurdwara Act of 1925, sub-sections (9), (10), (10 A) and (11) of section 2 of the Gurdwara Act of 1925, must be read collectively. The scope of the matter has been examined extensively while dealing with the legislative enactments involving the Sikh religion. All the provisions of a legislative enactment have to be examined harmoniously to give legislative effect to each of the provisions. It is, therefore, not possible to accept the contention that section 2(9) of the Gurdwara Act of 1925, should be the sole basis for interpreting the true connotation of the term "Sikh".

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**✓ COMMENTARY**

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1. Gurleen Kaur v. State of Punjab, 2009(3) SLR 690; 2009(3) R.C.R.(Civ) 324; 2009(3) S.C.T. 165; 2009(3) P.L.R. 324(F&H)(FD); Law Finder Doc Id # 195567.  
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2. Inserted by Punjab Act 11 of 1944, Section 37.  
3. Miti Puri College Bachao Sangharsh Samiti v. Shriomani Gurdwara PC, 2009(3) R.C.R.(Civ) 393(F&H)(DB); Law Finder Doc Id # 196254.  
4. Section 113 renumbered as sub-section (1), and new sub-section (2) added by Punjab Act No. 27 of 1951, Section 2.

(10) The term of this committee shall expire on the expiry of the term of the Board appointing it.

108-C. Research and religious fund to be governed by the Act. - The provisions of this Act relating to the administration and deposit of the General Board Fund and other trust funds shall, as far as may be, apply to the funds established under sections 108-A and 108-B.]

109. Funds transferred to Board by Shromani Gurdwara Parbanshak Committee. - If any sum is transferred to the Board by the Shromani Gurdwara Parbanshak Committee, then:

(i) any portion thereof held on behalf of a Notified Sikh Gurdwara, shall be paid, as soon as may be, to the committee of such Gurdwara, and any portion held on behalf of any other place of worship shall be paid to such person acting on behalf of the place of worship, as the [State] Government approve;

(ii) any portion not required to be paid under the provisions of clause (i) shall, in the first place, be used to discharge such debts of the Shromani Gurdwara Parbanshak Committee as may be legally recoverable;

(iii) any portion remaining after the debts of the Shromani Gurdwara Parbanshak Committee have been discharged as required by clause (ii) shall be set apart for such religious, charitable or educational purposes as the Board in general meeting may determine, provided that any portion not so set apart within one year from the constitution of the first Board shall be handed over to the committee described in sub-section (2) of Section 85 and shall form part of the funds of that Committee.

110. Funds held in trust by the Board for specified purposes. - Every sum made over to the Board under the provisions of this Act by a committee of a Notified Sikh Gurdwara or otherwise received by the Board for specified religious, charitable, [industrial] or educational purpose shall be held by the Board as a trust and shall be devoted to the purpose specified.

**✓ COMMENTARY**

SCPC has pervasive control over the Sri Guru Ram Das Charitable Hospital Trust. A perusal of Clause (10) of section 109 of the Gurdwara Act of 1925, reveals that the Board shall set apart funds for religious, charitable or educational purposes "as the Board in its general meeting may determine", provided that, any portion of the said funds not set apart within one year from the constitution of the first Board, shall be handed over

to the Committee referred to in section 85 of the Gurdwara Act of 1925. It is apparent from the provisions of clause (10) and (11) of section 109 of the Gurdwara Act of 1925, that the funds referred to in clause (i) and (ii) of section 109 of the Gurdwara Act of 1925, relate to funds pertaining to the management of "Gurdwaras", and for the discharge of debts of the Sikh, and for no other purpose. In the issue of funds which can be utilized by the Board for specified religious, charitable, industrial or educational purposes, referred to in section 110 of the Gurdwara Act of 1925, if emerges from the instant provision itself, that it is mandatory that a decision in that behalf must be taken by the Board in its general meeting.

In the case of the petitioners before this court, that any funds have been made available by the SCPC to the Board for purposes of management, administration or for other similar affairs of the Sri Guru Ram Das Charitable Hospital Trust, Amritsar. In any case, the mandate of section 110 of the Gurdwara Act of 1925, reveals, that the amount referred to in section 110 of the Gurdwara Act of 1925, has to be held in trust by the Board for the purposes referred to therein, including educational purposes. In the written statement filed by the respondent Medical College, the charges there adopted in this behalf is, that the respondent Medical College is not being run by the SCPC. It is also sought to be explained in the written statement, that the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, has its own members and is governed by its own trust deed. Any kind of subordination to the SCPC, or the provisions of the Gurdwara Act of 1925, or otherwise, is sought to be negated, on the ground, that any amount received by the SCPC, under section 110 of the Gurdwara Act of 1925, has to be made available to the SCPC, under section 110 of the Gurdwara Act of 1925, for the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, it will be difficult to establish the instant issue one way or another. Therefore, in our view, the respondent made available to us, no nexus between the SCPC and the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, can be stated to have been established merely from the provisions of the Gurdwara Act of 1925, referred to hereinabove.

The only provision that may be applicable to the facts and circumstances of the present case is section 111 of the Gurdwara Act of 1925, wherein financial can be made available, as to be retained by the SCPC, under the head "General Trust Fund", out of which the Board may make any allotment for discharging its obligation for running a religious, charitable or educational institution. Section 112 of the Gurdwara Act of 1925, refers to charitable or educational trusts. There is no material, on the record of this matter, to maintain separate funds in respect of each trust. There is no material, on the record of this case, that any such funds have been maintained by the Board of the SCPC, separately for the Sri Guru Ram Das Charitable Hospital Trust, Amritsar. Therefore, no direct nexus of the SCPC or the Board is ascertainable with the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, even on the basis of section 111 of the Gurdwara Act of 1925.

On the annual payment of Rs. 60 Lacs, by the SCPC to the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, be considered to be an expenditure incurred by the SCPC within the terms of the provisions of sections 109 to 112 of the Gurdwara Act of 1925. Under the 60 Lacs, annual funds for the management and administration of the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, are contributed by the SCPC. Whether or not, the hospital under reference is being run exclusively on the basis of the 60 Lacs, or substantially on the basis thereof, is not ascertainable from the pleadings of this case. In fact, it may well be, that the funds annually contributed by the SCPC, are such an amountable part of its annual recurring expenses. All the same, it cannot be overlooked, that the SCPC makes an annual financial contribution to the Sri Guru Ram Das Charitable Hospital Trust, Amritsar. It is also clear that the SCPC has a pervasive control in the management and administration of the affairs of the Sri Guru Ram Das Charitable Hospital Trust, Amritsar, inasmuch as the President of the SCPC, or the ex-officio President of the said trust, and all the trustees are members of the Executive Committee of the SCPC. It can, therefore, not be a matter of debate that the SCPC, in an effective and pervasive control of the Sri Guru Ram Das Charitable Hospital Trust, Amritsar. The mere fact that the trust deed

1 Substituted for the word "Provincial" by the Adaptation of Laws Order, 1956.  
2 Inserted by Punjab Act 11 of 1964, Section 37.