

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

CM No. 3007/2023 in  
WP(C) No. 370/2023

Satinder Singh

....Petitioner/Appellant(s)

Through :- Mr. Meharban Singh, Advocate  
Petitioner present in person.

V/s

UTof J&K and others

....Respondent(s)

Through :- Ms. Priyanka Bhat, Advocate vice  
Mrs. Monika Kohli, Sr.AAG

**Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE**

**CM No. 3007/2023**

Issue notice in CM No. 3007/2023.

On asking, Ms. Priyanaka Bhat, Advocate appearing vice Mrs. Monika Kohli, learned Senior AAG waives notice on behalf of the non-applicants. She seeks and is granted one week time to file response to the said application.

Heard learned counsel for the parties and applicant in person and also perused the record.

The present application has been preferred by the applicant for staying the operation of the impugned Notification No. 301/SGPB/Election/2023/327-51 dated 09.05.2023 issued by the non-applicant No. 2-Divisional Commissioner, Jammu by virtue of which the non-applicant No. 2 has issued the aforesaid Notification for the conduct of elections to the Gurdwara Parbandhak Board, 2023 so far as it pertains to Jammu Division only. The applicant has already preferred a writ petition before this

Court which is pending adjudication. The said petition has been registered as WP (C) No. 370/2023 in which the applicant has challenged the process of conduct of the elections to the Gurdwara Parbandhak Board Jammu and Kashmir issued in terms of Notification No. 301/SGPB/Election/2023/2477-80 dated 28.01.2023 in which, notice has been issued to the non-applicants and the objections have already been filed.

It has been brought to the notice of the Court by the applicant-Satinder Singh, appearing in person that the said process of conduct of the elections to the aforementioned Board was also challenged in Srinagar Wing of this Court in a Writ petition bearing No. WP(C) No. 344/2023 in which a Co-ordinate Bench of this Court vide order dated 22.02.2023 has shown indulgence and granted status quo with regard to the holding of the elections to the Board although in a different context.

The applicant appearing in person has further brought to the notice of the Court that after passing of the status quo order by the Srinagar Wing of this Court in the aforesaid writ petition, the process of election to the Board so far as it pertains to the Kashmir/Jammu Division in terms of Notifications earlier issued on 28.01.2023 by the concerned Returning Officers of Jammu and Kashmir Division i.e., the Divisional Commissioner, Jammu and the Divisional Commissioner, Kashmir, was deferred.

The applicant has referred to Section 3 of the Sikh Gurdwaras and Religious Endowment Act, 1973, in which the composition and constitution of the Board has been specified. For facility of reference, Section 3 of the aforementioned Act is reproduced as under:-

*“3. The composition and constitution of Board.-(1) There shall be established a Board which shall consist of fifteen members who*

*shall be elected by Gurdwara Prabandhak Committees in such manner as may be prescribed:....”*

Further, the case of the applicant is that in terms of Rule 36 of the Jammu and Kashmir Sikh Gurdwaras and Religious Endowment Rules, 1975, the Board consists of fifteen members i.e., eight members from Jammu Division and seven members from Kashmir Division which breakup has already been given in the aforementioned Rule which clearly shows beyond any shadow of doubt that fifteen members are to be elected for both the Divisions i.e., Kashmir Division as well as Jammu Division and the election process has to be a composite election process for both the Divisions and not separately. The applicant has also placed reliance on Section 8 of the aforementioned Act, which specifically provides composition of Board members with respect to the President and other office bearers and also lays down the procedure for their election to be held in a General Meeting for election of a President, 2 Vice Presidents, 2 Secretaries and 2 Treasures, which are to be elected amongst the fifteen members from both the Divisions. The proviso to the said Section further makes it clear that one Vice President, one Secretary and Treasurer are to be elected among the members of each province. For facility of reference Section 8 of the Sikh Gurdwaras and Religious and Endowment Act is reproduced as under:-

*“8. President and the office bearers of Board.- The members of the board shall, at their first general meeting, elect by ballot from among themselves,*

*(i) a President;*

*(ii) two Vice-Presidents, two secretaries and two treasures:*

*Provided that one Vice-President, one Secretary and one Treasurer shall be from among the members of each province.”*

A perusal of Section 5 of the aforesaid Act relates to the term of membership of the Board, which for all practical purposes is for five years from the date of its constitution. The specific case of the applicant is that since the conduct of the elections to the members of the Gurdwara Prabandhak Board is pending adjudication before this Court in writ petition WP(C) No. 370/2023, as also in Srinagar Wing of this Court in WP(C) No. 344/2023, wherein in terms of order dated 22.02.2023, status quo has already been granted by a Co-ordinate Bench and the Notification impugned dated 28.01.2023 in the above writ petition has already been stayed pursuant to which the election process was deferred both in Jammu as well as Kashmir Division, however, the non-applicant No. 2 i.e., Divisional Commissioner, Jammu, without waiting for the outcome of the same, in a haste manner, has issued the impugned Notification dated 09.05.2023 for the conduct of the elections to the Board only in Jammu Division, which is in violation of the provisions of the Act and the Rules mentioned (supra).

Further case of the applicant is that no such notification has been issued for conduct of elections to the Board in Kashmir Division. It is stated that when earlier the election process was initiated by the concerned Authority, Notifications in this regard were issued both at Jammu and Kashmir Divisions, on the same date i.e., 28.01.2023. In terms of the said Notifications, election was to be held on the same date but it was only when the status quo was granted by a Co-ordinate Bench of Srinagar Wing of this Court, though in a different context, the process of election was deferred in both the Divisions. It is not apparent from the record whether the earlier notification which is subject matter of challenge in writ petition WP(C) No. 370/2023

in which the present miscellaneous petition has been filed, has been withdrawn or cancelled, as such in absence of any thing to the contrary, the impugned Notification dated 09.05.2023 cannot sustain the test of law.

The Divisional Commissioner, Jammu has issued the Notification dated 09.05.2023 illegally by directing conduct of the elections in Jammu Division only, even though the Sikh Gurdwaras and Religious Endowment Act, 1973 and the rules framed thereunder provide that the Board is a single constituent body and its members i.e., fifteen in all, can be elected by a single process both at Kashmir and Jammu Divisions simultaneously and not otherwise.

*Prima facie* a case for indulgence is made out.

In the meantime, subject to objections and till next date of hearing before the Bench, the operation of the impugned Notification No. 301/SGPB/Election/2023/327-51 dated 09.05.2023 issued by the non-applicant No. 2 shall remain stayed.

List along with the main matter on 26.05.2023.

(Wasim Sadiq Nargal)  
Judge

Jammu:  
19.05.2023  
Meenakshi