

## CIVIL MISCELLANEOUS

Before D. K. Mahajan, J.

HARNAM SINGH AND ANOTHER,—*Petitioners*

*versus*

SWARAN SINGH AND ANOTHER,—*Respondents*

Civil Miscellaneous No. 652 of 1961.

*Sikh Gurdwaras Act (VIII of 1925)—Section 142—*  
*Petition before the Gurdwara Judicial Commission by an*  
*employee of a Gurdwara that his transfer to another*  
*Gurdwara was an abuse of powers of the Secretary or of*  
*the Board and, therefore, it should be set aside—Whether*  
*maintainable.*

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January, 18th.

*Held*, that such a petition is not maintainable under section 142 of the Act. The provisions of this section are attracted if any act is done by a member or past member of the Board, of the Executive Committee or of the Committee resulting in malfeasance, misfeasance, breach of duty, neglect of duty or abuse of powers vis-a-vis the institution. This section does not cover cases of personal grievances by persons interested. Grievances must have some relation to the welfare of the Institution.

*Petition under Article 227 of the Constitution of India praying that the order of respondent No. 2, dated the 6th March, 1961, deciding the preliminary issues against the petitioners, be set aside.*

H. S. GUJRAL, ADVOCATE, for the Petitioner.

N. L. SALOOJA, ADVOCATE, for the Respondents.

## ORDER

Mahajan, J.

MAHAJAN, J.—This order will dispose of Civil Miscellaneous petitions Nos. 652/1961 and 653/1961.

These are petitions under Article 226 of the Constitution and are directed against the order of

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the Sikh Gurdwara Judicial Commission, Amritsar, and the facts giving rise to them are that one Swaran Singh, an employee of the Darbar Sahib, Amritsar, and at the relevant time working as a clerk, was transferred by the Secretary to another Gurdwara in Muktsar. He filed a petition under section 142 of the Sikh Gurdwaras Act, 1925, before the Gurdwara Judicial Commission on the ground that his transfer was an abuse of powers of the Secretary or of the Board and, therefore, it should be set aside. Before the Judicial Commission, an objection was raised that the Commission had no jurisdiction to deal with such an application on the basis that the provisions of section 142 are not meant for the purpose of redressing private grievances. The grievance must have some relation to public interest. This objection was negated by the Commission and it held that the Commission had jurisdiction under section 142 to proceed with Swaran Singh's petition. The Commission also passed an interim order injuncting the Secretary and the Manager from giving effect to the order of transfer. The two petitions under Article 226 of the Constitution already referred to are directed against the matter relating to jurisdiction as well as to the interim order of stay of the transfer.

The short question that requires determination is as to the interpretation of section 142 of the Sikh Gurdwaras Act, 1925, and section 142 is in these terms—

[His Lordship read section 142 and continued:]

It cannot be disputed that Swaran Singh has a dual capacity in the instant case; as the employee of the Institution as well as a worshipper of the Institution. Therefore, he can be said to be a person interested in the Institution. But the question that arises for determination is whether he can on that basis get his present grievances redressed unless those complaints in any way affect or are concerned with the interests of the institution. It is nowhere stated in the petition under

section 142 that his transfer affects the interests of the Institution prejudicially. All that he says is that his transfer is *mala fide*. That may give rise to a cause of action to him in a civil Court, but that will not attract the provisions of section 142. Those provisions, in my opinion, are only attracted if any act is done by a member or past member of the Board, of the Executive Committee or of the Committee resulting in malfeasance, misfeasance, breach of trust, neglect of duty, abuse of powers vis-a-vis the institution. As there is no such allegation in the petition, I am clearly of the view that the provisions of section 142 are not attracted. I put it to the learned counsel for the respondent—Commission whether a claim for recovery of a debt against the Gurdwara would be covered by the provisions of section 142 and he was not in a position to say that it would be covered. Similarly, a claim for damages against an office-holder of the Gurdwara for his act of tort would not be covered by the provisions of section 142. The only way in which section 142 can be read is that it does not cover cases of personal grievances by persons interested. Grievances must have some relation to the welfare of the Institution. As that allegation is lacking in the petition, I am clearly of the view that the Commission had no jurisdiction to entertain this petition.

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So far as the question of the interim order is concerned, that really depends on the decision whether the Tribunal had jurisdiction in the present case. As I have held that the Tribunal had no jurisdiction, the interim order will by itself go overboard on that score.

For the reasons given above, these petitions are allowed and the impugned orders of the Commission are quashed, with no order as to costs.

B.R.T.