

TAKHTS, JATHEDARS, AND LEGAL PROVISIONS

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ABSTRACT

'Takht' means 'throne' symbolizing political power. Takht Jathedars are the spokesmen of the authority of the Takhts. The Sikh Gurdwaras Act 1925 refers to them as 'Head Ministers'. The Act defines 'Minister' as one who controls the management and performance of public worship. Though no definition of 'Head Minister' is available in the Act, it should be deemed as Senior or Head Minister and having duties similar to that of other Ministers including their supervision. The Act authorizes Shiromani Gurdwara Parbandhak Committee (SGPC), Amritsar to appoint them. The detailed procedure and grounds for their removal are available in the Act. Their appointments should be purely on merit and by consensus making these offices least controversial. The Jathedars should make restricted use of Takht authority to maintain its prestige and power. The codification of the procedure of appointment and their powers and obligations may be of help to avoid unnecessary controversies.

AKAL TAKHT

'Akal Takht' means "Throne of the Immortal" or "Throne of the Almighty". It was revealed or established by the Sixth Guru, Guru Hargobind Sahib in the year 1606 CE. The Akal Takht became the centre of multi-farious activities of the Guru. At the time of assuming *Gurgaddi*, the Guru put on two swords, which represented *Miri* (temporal) and *Piri* (spiritual) powers of the Guru. The Guru carried on the duties of spiritual office alongwith temporal activities, thus presenting a picture of saint- soldier. Militarization of the community and the transformation of the Sikh Movement by the sixth Guru was not in any way deviation from the principles laid down by the earlier Gurus. It was rather a continuation and confirmation of the philosophy of Guru Nanak who had condemned cowardliness and the attitude of submission to an unjust ruler dubbing it as a shameful act.

The *Miri-Piri* doctrine expounded by the Sixth Guru means that Sikhism bothers about both, the otherworldly (spiritual) as well as this worldly (temporal), concerns of the human beings. This unicity of religion and politics also means that the Sikhs are not only a religious group but a political community also. It implies that the politics should be religion based or value based. The Sikhs may aspire to acquire political power but it should be exercised for the welfare of whole mankind.

Referring to the activities of the Guru, Khushwant

Singh writes, "Guru's abode became like that of an Emperor... He sat on a throne and held court.... The Akal Takht became a spiritual place, a military centre, a political office, a court, a place for gatherings, a *darbar* and a throne issuing *Hukmnamas* (the royal orders) [8]. Similarly Lohelin states, "The Akal Takht is a preaching centre and also the seat of political and religious conferences.... In fact today the Akal Takht is a symbol of political activity of the Sikhs. All great movements have been led from this seat of the Sikhs" [3].

Likewise the Punjab and Haryana High Court has also concluded that Akal Takht is a symbol of political and religious powers [4]. Reference to a Supreme Court judgment can also be made in this regard. The fact situation giving rise to the case was that the appellant, Harcharan Singh Brar, a Congress party candidate from Muktsar constituency, was defeated in election to the Punjab Legislative Assembly in 1980 by Akali candidate H.S. Fattanwala, by a narrow margin. The appellant alleged that a *Hukmnama* was issued urging the voters to vote for the respondent. Further, a Committee nominated by Akal Takht allotted the election ticket to the respondent and thus he was a Akal Takht sponsored candidate. Speeches were delivered by eminent public persons (Badal, Longowal, etc.) appealing to the voters to vote for the respondent because he was the candidate of Akal Takht as his nomination was supported by the *Hukmnama* of Akal Takht. They said that not to vote for him would be against the tenets of the Sikh religion and would be a blasphemous act. It was contended that a *Hukmnama*

for a Sikh is of great consequence and its disobedience entails great misfortune. It was pleaded that election was void for being a corrupt practice under section 123 (3) of the Representation of People Act 1951 that reads as follows:

The appeal by a candidate or his agent or by any other person with the consent of the candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use, or appeal to religious symbols... for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

The respondent argued that in order to constitute a Hukmnama proper fulfillment of certain conditions precedent is required namely-

- a) there should be a meeting of *Sarbat Khalsa*, i.e., all the Sikhs,
- b) a unanimous decision must be arrived at,
- c) it should be approved by the Shiromani Gurdwara Parbandhak Committee,
- d) decision should be announced from Sri Akal Takht.

He contended that the impugned communication from Akal Takht was not a Hukmnama, so section 123 (3) is not attracted.

Upholding the plea of the appellant the Apex Court observed:

It is undisputed that Akal Takht enjoys a unique position amongst the Sikhs. It is indubitable that any communication from Shri Akal Takht, which is represented by eminent members of the community as Hukmnama, would have great religious persuasive value even though strictly speaking it might or might not be a Hukmnama [10].

Some communication from Akal Takht, call it Hukmnama or any other name, was issued.... The appeal in the name of religion was made on behalf of the respondent. So he was guilty of corrupt practice as mentioned in S. 123 (3). In the result the election is set aside and the seat is declared vacant. Appeal is allowed [11].

The Supreme Court has correctly appreciated the position and status of the Akal Takht.

OTHER TAKHTS

There cannot be any other Takht parallel to that of the Almighty (Akal Takht). There is hardly any evidence showing declaration or recognition or establishment of any of the other four Takhts by the Tenth Master. The Guru had exercised the power that emanated from Akal

Takht while issuing the Hukmnama from different places. Issuing Hukmnama by the Guru from a particular place do not confer the status of 'Takht' upon that place. The Guru had issued Hukmnamas from Paonta Sahib also but that is not known as Takht. It seems that the Sikhs had themselves started the use of this terminology for some important places connected with the Tenth Guru". The example of declaring Damdama Sahib as 'Takht' by the SGPC in 1966 in deference to the wishes of the Sikhs of Malwa region, is before us. All these places where the other four Takhts are said to be situated are certainly sacred places for the Sikhs but they are not Takhts in the sense the Akal Takht is.

Patna Sahib besides being the birthplace of the tenth Guru also received recognition as an important seat of Sikhism when Guru Gobind Singh gifted one of the four copies of Granth Sahib prepared at Damdama under his personal supervision. Keshgarh Sahib, birth place of Khalsa, is a turning point in the Sikh history. Hazur Sahib is the place where the tenth Guru breathed his last and bestowed Guruship upon Granth Sahib. It was perhaps on the analogy of four Hindu Tiraths that four Takhts were declared as such by some Sikhs. The fifth Takht was declared to be so keeping in view the political exigencies and regional considerations. At Damdama Sahib, the Guru wrote Zafarnama to Aurangzeb and prepared copies of Guru Granth Sahib.

Takht Jathedar: A Jathedar means a person who leads a Jatha (band). So he is a leader or chief of any organization. But a chief or leader of Akal Takht is difficult to imagine. Such a position can only be attributed either to God or to Guru. Therefore the current use of the term 'Jathedar of Takht' is a misnomer. There is hardly any reference to 'Takht Jathedar' in the early Sikh history. It was on October 12, 1920 when some Sikhs belonging to the so-called low castes were baptized at Jallianwala Bagh and were taken to Harmandir Sahib and Akal Takht by the Sangat. When they reached Akal Takht they found the caretaker and Granthis of Akal Takht missing. The Sangat appointed a Jatha to look after Akal Takht Sahib and appointed Bhai Teja Singh Bhuchar as Jathedar of that *Jatha* (battalion). As Bhai Teja Singh was addressed as Jathedar, all his successors also came to be known as such. It is worth noting that head priests of Patna Sahib and Hazur Sahib continued to be addressed as head priests or Head Granthis. The title of 'Jathedar', has not been used for them, though it is being commonly used for the head priests of the 'Takhts' in Punjab.

A new development in this regard took place at Patna on August 22, 2000. While paying tributes to the

former Head Granthi at his Bhog Ceremony, the President of Takht Patna Sahib Managing Committee made an important announcement. He appointed one of the Granthis as Takht Jathedar though no such office existed there prior to that. The appointment perhaps does not have the formal approval either of the Committee or of the Sangat. A formal letter of appointment is yet to be issued though the appointee has started acting and claiming himself as 'Jathedar'. No specific details as to his tenure, functions, responsibilities etc. is available as yet.

The office can be better known as that of **Mukh Sewadar** (Chief Attendant) or spokesman. He is not supposed to exercise the powers of Akal Takht which fall within the domain of Sarbat Khalsa. He is the spokesman of Sarbat Khalsa. The office is meant to implement the Hukmnama of Guru Panth but not of the Jathedar himself. He is not the occupant of the throne, he is not to issue royal orders, he is only an attendant or spokesman of that office or throne. He cannot dictate the community or arrogate Takht's powers to himself. He is to act as a 'Speaker' to convene the meetings of Sarbat Khalsa or representatives of the community and initiate the discussion on crucial issues and announce the decisions based on combined wisdom.

Selection for the office of Jathedars and their continuation in office has become politics-oriented. The persons with allegations of corruption, of moral turpitude, of acting irresponsibly are or have been occupying the offices of Jathedars of various Takhts. Only non-partisan scholars of Gurmat with clean conduct and behavior should be appointed to don these offices.

PRIESTLY CLASS

Sikhism does not recognize any kind of priestly class. Brahminical priestly class and Muslim clergy were specifically criticized by the Gurus. When Guru Gobind Singh created the 'Khalsa', he removed all the intermediaries and established the direct contact of the Sikhs with the Guru and God. It is only due to the exigencies of time in the modern life and smooth and sufficient functioning of Gurdwaras that Granthis etc. are appointed. Every Sikh is entitled to perform all types of religious services, rituals and duties. Thus there is no recognized clergy or priestly class in Sikhism. No post equivalent to the Pope of Christians exists in Sikhism. Power of the Almighty is not entrusted or bestowed upon any individual. **It is the Guru Panth or Sangat or Sarbat Khalsa that can claim delegation of those powers.**

TAKHTS, JATHEDARS AND THE SIKH GURDWARA ACT 1925

A wrong impression is prevailing that the Sikh Gurdwara Act contains no provision regarding Takhts and Jathedars. In fact there are a number of provisions applicable to them. A list of Sikh Gurdwaras which are to be managed in accordance with the provisions of the Sikh Gurdwaras Act is appended to the Act as Schedule I. Akal Takht Sahib (Akal Bunga), Shri Takht Keshgarh Sahib and Takht Sri Damdama Sahib are included in this Schedule at serial numbers 27, 118 and 354 respectively. The three Takhts situated in Punjab are mentioned alongwith other 350 scheduled Gurdwaras in the Act.

Section 41 of the Act provides that the management of every Sikh Gurdwara shall be administered by the Committee of management constituted thereof, the Board and the Commission in accordance with the provisions of the Act. About ninety important Gurdwaras are listed in section 85 and it is provided that the Board (SGPC) shall be the Committee of management for these Gurdwaras. For other Gurdwaras left out of this sub-section, SGPC is only a supervisory body and independent Committees of management are directly managing them. Clause (i) of sub-section (1) of S. 85 mentions Sri Akal Takht Sahib at Amritsar and Sri Takht Keshgarh Sahib at Anandpur for which SGPC will act as Committee of management also. It may be mentioned that in the original Act of 1925 only the above-mentioned two institutions were included in section 85 and were put under the direct management of the SGPC. This was the only distinction that was recognised between the Takhts on the one hand and other Gurdwaras on the other. However this distinctive position is not retained for the Takhts when other Gurdwaras are also brought under the direct management and control of the SGPC by their inclusion in section 85 by an amendment in 1944. The amendments to the Act in 1944, 1959 and 1998 have taken the number of Gurdwaras for which the SGPC will act as a Committee of management to ninety [5].

While prescribing the composition of the Board (SGPC), the Act is now referring to five Takhts. Section 43-A (1) provides that besides the elected and co-opted members the Board (SGPC) shall consist of the Head Ministers of the Darbar Sahib and the following five Takhts, namely Sri Akal Takht Sahib Amritsar, Sri Takht Keshgarh Sahib Anandpur, Sri Takht Patna Sahib, Sri Takht Hazur Sahib Nanded and Takht Damdama Sahib Talwandi Sabo as ex-officio members. The last mentioned Takht Damdama Sahib was recognised as Takht by a resolution of SGPC

dated November 18, 1966. It was only in 1959 that the Act was extended to the erstwhile PEPSU area in which Damdama Sahib is situated. It is as late as 1999 that Takht Damdama Sahib is included in section 43-A (1) (ii) by an amendment to the Act.

It is to be noted that the term 'Head Ministers' of the Takhts is used in the Act. Term 'Jathedars' is not used for them. We can say that minister is a managerial or official term and not a religious one. It shows that nomenclature 'Jathedars' for the 'Spokesmen' of the Takhts was not prevalent in the twenties of the last century. It has become common only afterwards. But there has never been any doubt or debate that 'Head Minister' means anything else than 'Jathedars' and the 'Jathedars' have been attending meetings of the SGPC as members from the right beginning. But they are referred to as 'Head Ministers' in the official records. For example the minutes of the SGPC meetings marking the presence of members refer to them as 'Head ministers'.

The term 'Head Minister' is not defined in the Act but term 'Minister' is defined in Section 2 (4) (vii) of the Act as follows:

"Minister means an office-holder to whom either solely or alongwith others the control of management or performance of public worship in a Gurdwara and of the rituals and ceremonies, observed therein is entrusted"

So an office-holder who is entrusted with either control of management or performance of public worship is a "Minister". To be a Head Minister, one must fulfil the qualifications of a 'Minister'. Only the 'Head Ministers' can be the members of the SGPC and of the Committees of management [6]. Taking the 'Head Minister' and "Jathedar" as synonymous, he should be a person who holds the office which carries the duties, functions and powers of control of management and performance of public worship at the respective Takht.

Appointment and Dismissal

Section 136 of the Act authorizes the respective Committee of the Gurdwaras ...to appoint any qualified person as minister or office-holder if any vacancy is there. As mentioned above 'minister' impliedly includes 'Head Minister' also, so the Committee concerned can also appoint Head Ministers of Takhts. The SGPC is the Committee of management of three Takhts in Punjab as per provisions of section 85 (1). So the Head Ministers or Jathedars of Takhts are to be appointed by the SGPC that has been exercising this power without being questioned.

As mentioned above the Head ministers of Takhts

must be included in the statutory definition of 'Minister' in Section 2(4)(vii) of the Act which says that "Minister" is an office-holder of a particular kind. Section 133 of the Act opens with the words, "subject to the provisions of this Act, a Committee shall have full powers of control over office-holders..." Thus, the SGPC is to have full control over the Jathedars. Section 134 provides for their suspension or dismissal on any of the following grounds:

- (a) Persistent default in duty of submitting of budgets, accounts, reports or returns.
- (b) Disobedience of lawful orders of the Committee.
- (c) Malfeasance, misfeasance, breach of trust or neglect of duty in respect of a trust.
- (d) Misappropriation or improper dealing of Gurdwara property.
- (e) Unsound mind or physical unfitness to discharge the functions of office.
- (f) Misconduct of such a character rendering him morally unfit for office.
- (g) Persistent default in performance of duties connected with the management or performance of public worship or of any rituals and ceremonies in accordance with the teachings of Sri Guru Granth Sahib.
- (h) Has ceased to be a Sikh.

Provision to section 134 empowers the Committee to prescribe the maximum period of service or age limit for retirement of ministers and others.

Section 135 prescribes certain procedural safeguards before dismissal of Ministers. It requires an inquiry, framing of definite charge in writing in respect of each offence and explaining the same to such minister. Evidence for and against should be adduced in his presence. His defense is to be taken down in writing and finding on each charge is to be recorded.

The SGPC can suspend a minister pending inquiry. The order of SGPC to suspend or dismissal of minister shall be final [9]. There is no provision for appeal either to the Commission or to the court. The power has been used quite frequently for the removal of Jathedars by the SGPC in the recent past.

Thus, it is absolutely clear that the Sikh Gurdwaras Act, 1925 vests the power of appointment and dismissal of High Ministers (Jathedars) in the SGPC. The Act does not lay down detailed guidelines for the SGPC as to the appointment of Jathedars. No qualifications are prescribed. Section 136 only says that any person who is qualified for the office in the opinion of the SGPC can be appointed as Head Minister (Jathedar). But as regards dismissal a number of grounds and detailed procedure is contained in sections 134 and 135 of the Act.

Section 4 of Delhi Sikh Gurdwaras Act 1971 provides for the composition of the Delhi Sikh Gurdwaras Managing Committee of 64 members that includes head priests of Akal Takht Sahib, Takht Kesgarh Sahib, Takht Patna Sahib and Takht Hazur Sahib. The Delhi Act has used the term 'head priest' that may not be totally appropriate but is certainly better than the term 'Jathedar' which is currently in use.

It will be relevant to mention that the proposed draft of **All India Sikh Gurdwaras Bill 1999**, prepared by Justice Harbans Singh, Chief Commissioner Gurdwara Elections, includes a full chapter [7] on Takht Jathedars and Head Granthi of Sri Darbar Sahib. It envisages the appointment of Jathedars by the Central Board out of a panel of names recommended by the selection committee constituted by the Central Board. The selection committee shall invite nominations from Sikh institutions and organizations in India and abroad to prepare the panel of names for the purpose. The Board will consider the panel of names in a meeting specifically convened for this purpose and take a decision for appointment by 2/3 majorities of present and voting members. The Bill also proposes their qualification as being (a) Amritdhari Sikh, (b) graduate, (c) well-versed in study of Guru Granth Sahib, writings of Guru Gobind Singh and eminent Sikh savants, (d) working knowledge of other religions, (e) aged between 45 and 70 years and (f) has reputation of living the life of Gursikh. Further, it prescribes that the Akal Takht Jathedar shall convene the meetings of Jathedars and Head Granthis and they shall decide the matters in the form of Gurmatta by consensus.

Justice Kuldip Singh [2] opines that inclusion of such a chapter in the proposed enactment will not stand the test of constitutionality before the courts. It will be held as interference by Parliament in the religious affairs of Sikhs and therefore violative of Articles 25 and 26 of the Constitution. It is submitted that such provisions are not likely to be held as unconstitutional as the power of appointment is to be conferred on the representative body of the Sikhs and only Sikhs are to be appointed to these offices. Regulation of religious affairs in this context seems to be within the permissible limits. We need not discuss this aspect in detail as there is no likelihood of such an enactment in the near future.

Another development in this regard deserves notice. At the Bhog ceremony of former Head Granthi of Takht Patna Sahib on August 24, 2000, the President of Gurdwara Managing Committee announced the appointment of Takht Jathedar though no such office

existed there prior to that. The announcement, perhaps, did not have the formal approval of the Managing Committee that had completed its term and later dissolved itself leaving the management in the hands of an interim committee of five persons. No formal letter of appointment is issued to the person who has started acting and claiming himself as Jathedar and no details as to his tenure, functions and duties etc. is available as yet.

CONCLUSIONS

Strictly speaking, there is only one Takht that is of the Almighty, *Akal Takht*, which has no equal or parallel. Other Takhts though came to be designated as such by tradition should be carrying and enforcing the authority of Akal Takht. But no controversy need be initiated by withdrawing the status of Takht from other four Takhts. '*Takht Jathedar*' is a term, which has become of general use but has no historical origin. The title of 'Takht Jathedar' is only of 20th century origin. '*Mukh Sevadar*' is a more appropriate title, which reflects humility and service. But now it has come to stay due to wider use. The Sikh Gurdwaras Act 1925 refers to 'Head Ministers' of Takhts and not the 'Jathedars' thereof 'Takht Jathedar' is now-a-days considered as vernacular equivalent of '*High Minister of Takht.*' '*Jathedar*' in his personal capacity is not a supreme or paramount authority. Though he enjoys a high and respectable position and status being the spokesman of the authority symbolized by the Takht. The Act empowers the SGPC to appoint, control, suspend, and dismiss the Jathedars of Takhts in Punjab. The SGPC have been making a liberal use of these powers. It will be better if a consensus is evolved to appoint really meritorious, learned, honest, and selfless individuals as Jathedars, by wider consultations. Their jurisdiction, functions, and responsibility and procedure for the exercise thereof need also be demarcated. To prevent the frequent controversies as to the appointment and removal Jathedars, there is nothing wrong if the procedure for their appointment, removal and taking decisions is codified. Proposed provisions in the Sikh Gurdwara Bill 1999 can be of help and guidance for the purpose.

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