

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN BIRMINGHAM
PROPERTY TRUSTS AND PROBATE LIST (ChD)**

Before His Honour Judge Simon Barker QC sitting as a Judge of the High Court

28 March 2018

BETWEEN

**(1) SUKHBINDER SINGH SANDHU
(2) SURJIT SINGH MATTU
(3) AJIT SINGH BRAINCH**

Part 20 Claimants

and

**(1) TARSEM SINGH
(2) MANJIT SINGH BOPARAI
(3) THE CHARITY COMMISSION
(4) HER MAJESTY'S ATTORNEY GENERAL**

Part 20 Defendants

Mr Avtar Khangure QC, instructed by Aspect Law Limited, appeared for the Part 20 Claimants

Mr Harpreet Giani, instructed by Sahota Solicitors, appeared for the First and Second Part 20 Defendants

The Third Part 20 Defendant and the Fourth Part 20 Defendant were not represented and did not appear

Hearing dates 4-8 and 11-15 September 2017

JUDGMENT

I direct that pursuant to CPR 39APD6 paragraph 6.1 no tape recording shall be made of this judgment and that copies of this version shall stand as authentic and be treated as the official transcript

HHJ Simon Barker QC :

Introduction

- 1 This action concerns the validity of the election, in May 2015, of the Management Committee ('MC') at the Guru Nanak Gurdwara ('the GNG'), which is a Sikh Temple at Sedgley Street, Wolverhampton.
- 2 The GNG is an unincorporated association and registered charity. The GNG's aims and objectives are declared in a written constitution ('the Constitution'). The Constitution also provides for the GNG's administration and management, including the process by which the MC is to be elected. The Constitution was lodged with the Charity Commission in June 1983 and was amended in November 1992.
- 3 The correct meaning and effect of the Constitution's provisions relating to elections and objections to elections is central to the substantive determination of these proceedings.
- 4 The proceedings have had a long and active procedural history. The proceedings began with an ex parte application for an injunction on 23.10.15. The procedural hearings culminated in a successful relief from sanctions application on 29.6.17 which resulted in the court reinstating the First and Second Part 20 Defendants' (collectively 'Ds') Part 20 defence and restoring their right to defend the Part 20 Claim. In the intervening period the court heard several interim applications. These included two hotly contested applications by which Ds (at that time claimants in the proceedings who had sought declaratory relief upholding the validity of the May 2015 elections) sought, unsuccessfully, to withdraw the issue of the validity of the May 2015 election from determination by the court and, thereby, to extract themselves from the terms of an interim consent order regulating their dealings with and accounting for the GNG's very substantial cash income and reserves. First, Ds contended that they had discontinued their claim as of right without needing the court's permission and, subsequently, they sought the court's permission to discontinue their claim. There was plainly a genuine dispute as to whether the May 2015 election was valid and whether there had been legitimate objection to the results in accordance with the Constitution. As Ds did not wish to continue the claim, the Part 20 Claimants (collectively 'Cs') were permitted to take over its advancement by way of Part 20 claim and the interim consent order was continued. It is not necessary, in this substantive judgment, to refer in any further detail to the procedural hearings and orders.
- 5 Mr Khangure QC, who appeared for Cs, relied on certain aspects of Ds' conduct in the litigation, for example in relation to disclosure and in disregard of court orders, including the consent order, as evidencing unreliability. Mr Giani, who appeared for Ds, acknowledged that his clients faced certain difficulties on this front but emphasised the importance of deciding the substantive issues by reference to the Constitution and the events directly relating to the 2015 election.
- 6 There is some factual background pre-dating the 2015 election which is relevant in that it helps to explain why this election should have given rise to intense disagreement between the GNG's officers and disharmony within the congregation. One issue in particular is whether reasonable adjustments were made for members of the congregation with physical impairments and elderly or infirm congregants wishing to

worship at the GNG. The adjustments made resulted in them being unable to access parts of the GNG's building and, importantly, being provided with seating which was segregated and screened off from the main body of the congregation in the worship hall so that they should not be present before and seated above the level of the Guru Granth Sahib. This issue was live prior to the 2015 election and was the subject of separate proceedings under the Equality Act 2010. Those proceedings were also hard fought at procedural stages, which concluded with an appeal before HHJ Stacey in 2016, by which a District Judge's refusal to stay the proceedings was upheld, and a misconceived and unsuccessful attempt to subject that appeal decision to judicial review. The substantive issue is said to have been the subject of a compromise agreement but, as I understand it, there is ongoing disagreement about the arrangements to be made.

- 7 Reduced to its essence, the relevance of that issue to these proceedings is that Cs are part of or favour the section of the congregation which supports the making of reasonable adjustments by providing seating on the floor of the worship hall in the midst of the congregation notwithstanding that the provision of seating may result in certain congregants, when seated, being above the level of the Guru Granth Sahib; whereas Ds belong to or favour the section of the congregation which considers that reasonable arrangements had been made and would be made by providing seating or benches to the side of the worship hall and screening those seated from the main body of the congregation and the Guru Granth Sahib. This disagreement is but one, albeit a significant one, illustration of the division and disharmony within the GNG. There are other disputes, including as to the use of the GNG's funds. The officers and congregation are divided into two factions and the resultant disharmony has interrupted the orderly running of the GNG since mid 2014 at the latest.
- 8 Before turning to the relevant law and then the scheme by which the GNG is intended to operate under the Constitution, I shall address what the case is not about and then outline the issues for decision in this judgment.
- 9 Mr Giani submitted, in his closing submissions, that "*any sins*" in the litigation have no bearing on the events of May 2015 and should have no bearing on the substantive outcome of these proceedings. Mr Giani emphasised that this case is not about the disability issue, which remains live within the GNG, not about what constitute reasonable adjustments for the frail and elderly wishing to worship at the GNG, not about the meaning of edicts issued by the Shromini Gurdwara Management Committee of Shri-Amritsar Punjab, not about issues of equality law, and not about altercations or disputes that may or may not have occurred at the GNG at or around the time of the 2015 election, further, and in particular, the court is not concerned with doctrinal matters of the Sikh faith. Mr Giani submitted that what does concern the court is (1) the election, in May 2015, of 5 Singhs to serve as the persons who elect the MC for a two year period¹ ('5 Singhs'), in this case 2015-2017, (2) the election by the 5 Singhs of the 25 persons to serve on the MC for 2015-2017, and (3) whether the events of 2.5.15, 3.5.15, 3-9.5.15 and 10.5.15 conform with the requirements of the Constitution concerning and leading to the valid election of a MC. Mr Khangure QC agreed in large measure, but did submit that certain conduct before and during May 2015 is relevant to the substantive issues for decision following the trial and that the divide as to what constitutes reasonable adjustments was part of the background or context to the substantive issues in this case. I accept Mr Khangure QC's submission and view it as tempering the submissions of Mr Giani which, by that qualification, become reconcilable with those of Mr Khangure QC.

¹ Referred to in the Constitution variously as 'five Sikhs' and 'five Singhs'

- 10 As to Cs' claim, the prayer for relief to their Part 20 claim seeks : (1) a declaration that the 5 Singhs and the current MC were not elected in accordance with the Constitution; (2) an order that the 5 Singhs and the current MC are forthwith removed from office; (3) an order, pursuant to the provision in the Constitution at (6) under the heading "The method of electing "*the board of five Sikhs*"², that the Trustees do forthwith take over the administration of the GNG and do name 5 qualified Singhs as the election board within 4 weeks of the order; (4) an order that the new election board do select a new MC, in accordance with the Constitution, within 4 weeks thereof ; and, (5) further or other relief and costs.
- 11 Mr Khangure QC and Mr Giani helpfully outlined the issues that arise for decision at trial. Having regard to their submissions, the list of issues for determination is :
- (1) What are the requirements of the Constitution providing for the election a new MC?
 - (2) Was the election of 5 Singhs on 2.5.15 valid?
 - (3) On 3.5.15 did any member(s) of the congregation make any legitimate objection to one or more persons elected by the election board? If not and in default of legitimate objection then, were the 5 Sighs deemed recognised or accepted by the congregation (i.e. validly elected)?
 - (4) Did the 5 Singhs validly elect and appoint a new MC?
 - (5) On 10.5.15 did any member(s) of the congregation make any legitimate objection to one or more persons elected to the MC by the 5 Singhs? If not and in default of legitimate objection then, was the MC deemed approved by the congregation (i.e. validly elected)?
 - (6) Is there any fatal constitutional shortcoming or procedural lapse that warrants the removal of the current 5 Singhs and/or the current MC from office immediately?
- As is apparent, these issues are sequential and the answer to any one of the issues may render it unnecessary to answer the remaining issues.

The law as to construction of the Constitution

- 12 As an unincorporated association, the GNG has no independent legal personality and, unlike a company or corporation sole or industrial and provident society, is not a legal entity. The individual members constitute its legal personality and in proceedings they, representing the association, are usually themselves represented by the trustees or certain officers or committee members acting for and on behalf of all members of the association.
- 13 The rules as to governance of the GNG and the relationship between the members are set out in the Constitution. The Constitution constitutes a contract which regulates the relationship between the GNG and its membership and between the members in their capacity as such. The proper approach to the interpretation of an association's constitution is governed by the law of contract and the legal principles as to the interpretation of contracts, which are a matter of law for the court, see Evangelou and others v McNicol [2016] EWCA Civ 817 at [18] - [20].
- 14 The Supreme Court has recently reiterated guidance on the proper approach to interpreting or ascertaining the meaning and effect of contracts in Marley v Rawlings [2015] AC 129. The case concerned the construction of a will but the Supreme Court drew no distinction relevant to this case between the interpretation of a will and the interpretation of a contract. At [19] Lord Neuberger PSC summarised the court's approach to interpreting contracts :

² Used in the Constitution interchangeably with 'Singhs'

“When interpreting a contract, the court is concerned to find the intention of the party or parties, and it does this by identifying the meaning of the relevant words, (a) in the light of (i) the natural and ordinary meaning of those words, (ii) the overall purpose of the document, (iii) any other provisions of the document, (iv) the facts known or assumed by the parties at the time the document was executed, and (v) common sense, but (b) ignoring subjective evidence of any party’s intentions”.

At [20] Lord Neuberger, after stating that the approach to interpreting a will should be the same as to interpreting a contract, added that :

“Whether the document in question is a commercial contract or a will, the aim is to identify the intention of the party or parties to the document by interpreting the words used in their documentary, factual and commercial context”.

Lord Neuberger also drew attention to Lord Hoffmann’s observations in Kirin-Amgen Inc v Hoechst Marion Roussel Ltd [2005] 1 All ER 667 at [64] that :

“No one has ever made an acontextual statement. There is always some context to any utterance, however meagre”.

15 While this guidance is clear and concise, its application becomes more complex when the language of the contract is ambiguous or the meaning not readily discernible, and when the background material, that is the context, both documentary and factual, is also problematic or itself unclear.

16 Referring to Evangelou and others v McNicol, Mr Khangure QC also drew attention, in the context of the implication of terms where the contract confers a discretion on a party, to the judgment of the Court of Appeal at [24] :

“ ... a discretion conferred on a party under a contract is subject to control which limits the discretion as a matter of necessary implication by concepts of honesty, good faith and genuineness, and need for absence of arbitrariness, capriciousness, perversity and irrationality: see Socimer International Bank Ltd v Standard Bank Ltd [2008] EWCACiv 116 at [66] and Braganza v BP Shipping [2015] UK SC 17 ...”.

Mr Khangure QC submitted that the same would apply where a constitution confers a duty or a power on an individual or group of individuals who are bound by that constitution when acting pursuant thereto. I agree.

The Issues : (1) What are the requirements of the Constitution providing for the election of a new MC?

17 Taking as the starting point the extract from Lord Neuberger’s speech in Marley v Rawlings at [19], the first point to note is that the Constitution is not the product of the parties’ negotiations, but was settled, in so far as materially relevant, almost 35 years ago. The parties have not adduced specific evidence of facts known in the lead up to, or at the time of, approval of the Constitution in 1983 or 1992. As to subjective intentions at the time the Constitution was adopted, there is no evidence and, therefore, nothing to be identified and ignored.

18 From my reading of it, I take the overall purpose of the Constitution to be twofold; first, it declares the religious ethos and the ideals of the GNG by setting out the GNG’s aims and objectives, the religious tradition governing worship at and use of the GNG, and the qualifications and duties of the priest. Secondly, it makes detailed provision for the administration and management of the GNG, both as to the services or tasks to be

performed and as to the qualifications of and method of electing those who are to perform them, and it limits the uses that may be made of the GNG.

- 19 As to the provisions of the Constitution overall or other than those directly concerning the election of a new MC, there is one overarching principle or theme. That is that the ultimate authority on both religious or doctrinal matters and secular matters is the congregation. References to the authority of the congregation (referred to variously with upper and lower case 'c') include :
- in relation to the preaching and administration in accordance with religious tradition as laid down by Gurus, "*If at any time there is any doubt about Sikh Guru tradition then final decision shall rest with the Congregation*";
 - in relation to election of the election board of 5 Singhs as part of the process of electing a new MC, "*If congregation objects to any name and the objection is legitimate then another member should be selection in his place*";
 - in the event that the election board of 5 Singhs is elected by six office-bearers and the GNG's trustees ('the Trustees'), "*Then they shall get the approval of the congregation*";
 - following the election of a new MC and announcement of their names to the congregation, "*If the congregation objects to any member and the objection is legitimate another suitable person shall be elected in his place*";
 - where a vacancy has arisen on a serving MC and a permanent replacement is elected, this is "*subject to the approval of the congregation*";
 - where a member of a serving MC, including the President, is dismissed and a suitable person elected in his place, the MC "*shall get the approval of the Congregation*";
 - amendments to the Constitution may be proposed by the congregation and must be approved by a two thirds majority of the MC and are then subject to "*the permission of the Congregation*"; and,
 - generally, under the section in the Constitution headed "*Important Information*" there is a free standing rule, "*(g) In any matter relating to the Sikh Temple the ultimate decision shall be of the Congregation*".
- 20 This overarching principle is not without its own difficulties in interpretation, these include : what constitutes "*the congregation*"? How does it signify approval? How does it object? What is "*legitimate*" objection? These questions are not necessarily susceptible to complete answer in the abstract. For example, and as happened on one relevant occasion, the congregation may comprise a mixture of persons who choose to attend for worship or who know that the congregation's recognition, approval or objection will be sought, and other persons who are present because they have been invited by such a person or because they have been invited by a congregant in order to celebrate an event concurrently with the ongoing regular worship at the GNG. I shall return to these questions after setting out the relevant provisions and words in the Constitution.
- 21 In addition to references to the "*congregation*", the Constitution also makes some references to "*members*" (with both lower and upper case 'm'). No definition of "*member*" and no qualifying criteria for membership are set out in the Constitution. There is no formal record book or register of who comprises the congregation or the members, whether in general or for any particular purpose.
- 22 Before considering the Constitution's provisions as to election of the MC, it is helpful to have an appreciation of what the MC is and what it does. This forms part of the relevant documentary and factual context and is derived from other provisions in the Constitution. The Constitution provides for MCs to serve a two year term from May in alternate years. No member of one MC is eligible to serve in the succeeding MC. The

MC numbers 25 persons, 17 designated office-bearers and 8 general members. The 17 office-bearers include the following : (1) President, (2) Vice President, (3) General Secretary, (4) Vice General Secretary, (5) Treasurer, and (6) Stage Secretary (collectively 'the Electing Officers'). Each member of the MC must take an oath which includes a declaration of being "a regular member of the Congregation of the [GNG]" and "obedient to its Constitution". The Constitution makes express provision for the duties of each office-bearer. Certain of the office-bearers (President, General Secretary, Treasurer and Stage Secretary) must meet specific religious requirements. Other members of the MC may be clean shaven and need not meet the same strict requirements. The Constitution requires the MC to meet monthly and makes express provision for the conduct of such meetings, the consequences of failure to attend, and the right of the congregation to ask about the activities of the MC.

23 As to the election and composition of a new MC, the Constitution provides as follows :

"Election Board Of Five Singhs

The election board of five Singh's shall be established, to elect new Committee, on the first Sunday in May of the year in which new Committee is to be established. These five Singh's must be baptized, observers of Sikh Five principles and living according to strict religious code and read Sikh scriptures daily. It is necessary that they should be regular members of this Temple. None of them should be a Trustee or a member of any other Sikh Temple Management Committee.

The method of electing the board of five Sikhs

Before the First Sunday of May, the President, Vice President General Secretary, Vice General Secretary, Treasurer, Stage Secretary of the present Committee along with five (original) members of the selection Board (eleven altogether) shall have consultation with each other and then they shall select five members for the new selection board after investigating the suitable Sikhs. At least Seven Members should agree for the acceptance of each name. The Chief of the old election Board should get recognition or acceptance of the congregation for the new election board on the first Sunday of May. If congregation objects to any name and the objection is legitimate then another member should be selection in his place.

(1) This new election board shall elect the new Committee.

(2) The five members of the election board shall reach each decision unanimously. If at any decision, all of them do not agree, they shall reach the decision with the help of the Trustees of the Sikh Temple.

(3) The election board of the five Singhs shall be limited to the election of the Committee. There shall be no interference in the administrative activities of the Board.

(4) If any member of the election Board leaves or is dismissed then the remaining members along with the above mentioned six office-bearers shall fill the vacancy created by the dismissed member. The new member shall only serve up to the remaining tenure of the board.

(5) If due to any particular reason the Committee is dismissed and some member of the election Board are also dismissed or leave then the remaining members of the Board along with the Trustees shall fill in the vacancy of the dismissed election board member within 4 weeks. The board of these five Sikhs shall only elect the new Committee. It is necessary that the election of the New Committee shall be completed within 4 weeks.

(6) If due to any particular reason the Committee and the election board of five Singhs are dismissed then Trustees shall take over the charge of administration. They shall name the election board of five proper qualified five Singhs within the 4 weeks. That board in turn shall elect the new committee. This election shall have to be completed within 4 weeks.

(7) If all the members of the election Board are dismissed or leave then the above mentioned six office-bearers of the Committee and Trustees after having consultation with each other shall elect the board of five Sikhs with prewritten qualifications. Then they shall get the approval of the congregation.

The Management Committee

...
(1) The Management Committee shall be elected every two years in the month of May. No member belonging to the previous Management Committee shall be taken into the newly elected Management Committee.

...
Important Note : (a) President, General Secretary, Treasurer, Stage Secretary, Incharge of Akand Paths³, Incharge of the Langar Food, shall be under all circumstances baptized Sikhs and also living according to strict religious code. The Vice in charge of these must at least be of full Sikh appearance with full hair and beard.

(b) In the rest of the Committee members and office-bearers the clean shaven persons can also be taken.

(c) President, General Secretary, Treasurer and Stage Secretary must be educated according to their status and office.

(d) In each sphere of service being done men and women shall have equal rights.

...

Method of Electing Management Committee

(a) On the first Sunday of May, before the election, the acting management committee⁴ would be discharged (but the discharged committee shall carry on doing its duty until the new committee is elected as a working committee).

(b) The election Board of the Five Singhs shall elect all the members and office bearers of the committee according to proper qualifications in between the first Sunday of May and last Sunday of May. The board then shall have established the committee by announcing the names of the management committee in the Sunday congregation and getting there approval of the management committee. If the congregation objects to any member and the objection is legitimate another suitable person shall be elected in his place.

(c) On the next Sunday after the Sunday on which full fledged committee is established, there shall be a meeting of both old and new management committees in the Sikh Temple. The election board shall make all arrangements for this meeting and the old committee shall give all change to the new committee.

(d) All the record relating to the administration of the Sikh Temple (Guru's Abode) all (Paper Documents) or articles shall be handed over by a member or office-bearer to the responsible member of the new committee after making him understand everything fully. Stern action shall be taken against any person who shall be negligent in his duty by doing so.

(e) The Singhs of the election Board shall be responsible for taking over the Charge of administration from the old committee and handing over to the new committee.

(f) If any office-bearer refuses to hand over the charge of the Gurdwara administration then legal action shall be taken against that person, and in future that person shall be barred from taking over any office of the service in the Gurus Abode. If due to any reason any post falls vacant in the management committee the assistant of the post shall take over the charge and he or she shall work on a temporary basis. The management committee shall decide to fill that vacancy on a permanent basis. If it is the place of an ordinary member then also it shall be filled by the management committee. The election of the new member or office-bearer shall be subject to the approval of the Congregation.

(note)

(1) If due to particular reasons there is need to dismiss the committee, then the two third quorum of the committee members is required in favour of dismissing the committee.

³ "Recitation of the Sikh holy book Guru Granth Sahib continuously for 48 hours" Constitution Page 4 (3)(13)

⁴ The outgoing MC

(2) If due to particular reason the committee is dissolved then the election board of five Singh's shall take the charge and by repeating the proper constitutional method shall elect the new committee within 4 weeks. That committee shall be operational up to coming Basakhi (festival which is usually on 13th of April every year) plus two years more after that Basakhi day. (Meaning up to Basakhi after election plus two more years).

(3) In ordinary conditions, any member of the committee or election board (existing) or in any Service⁵ shall not be taken again in any form in committee or board for the next two years.

(4) If any committee, due to any conditions is dismissed before the expiry of two years then the members of the previous committee before the one just dismissed can be taken in the next committee to be formed.

(5) If any office-bearer or a member of the committee is unable to do this duty properly, then the President shall ask him in the committee meeting and shall persuade him to do his duty in a proper manner. If he or she is still negligent in doing his duty properly then action shall be taken against him after deciding in the committee if it is a serious matter then the committee shall discharge him from the duty and shall elect a suitable person in his place and shall get the approval of the Congregation.

(6) If the President is negligent in performing his duty then the General Secretary shall bring this to his attention his negligence in the Meeting of the Management Committee. If there is a serious short coming or fault on behalf of the President and the fault is proved then the Committee shall have the right to elect other suitable person to replace him by a majority verdict and get the approval of the Congregation.

(7) If there shall be any complaint against any member or office-bearer then he shall be asked to attend the meeting in writing. He should attend the meeting. If the member does not attend two meetings without good reason then the committee shall have the right to make the judgment in his absence.

Important Information

(a) If at any time the Congregation wish to inform or amend the Constitution then Management committee with its two thirds majority can make the change with the permission of the Congregation. ...

(b) If due to any reason President or General Secretary are late or negligent in the election process of the Committee, then the Committee should automatically be understood to have been dismissed on the first Sunday of the May election Year.

(c) If during the service of the Sikh Temple any person had been proved disgraced or corrupt, he shall never again be taken for the Service of the Sikh Temple.

(d) The Congregation of the Sikh Temple shall have the full right to enquire about any matter form the Management Committee.

(e) If the Committee does anything wrong or does anything beyond its powers, then the Congregation after meeting the Committee can also ask for an explanation. If the Committee refuses to give full explanation or express inability to make it clear then the Congregation after consulting the Trustees shall call for the General open meeting of the Congregation to attend this Temple regularly and then shall decide about the mistake of the Committee and also about what they did in excess.

(f) In any matter relating to the Sikh Temple the ultimate decision shall be that of the Congregation.

...

(i) No member of the Gurdwara Management Committee or a Trustee, Election Board or worker shall be a member of Narankari, Radha-Swami, Darshan Dasia or any other party or organisation which is against the Sikh Religion.

Oath of allegiance, Management Committee and Election Board⁶

... truly make the underwritten statement that ...

(1) I believe Guru Granth Sahib as Guru and do not believe in any physical Guru or in any other religion

(2) I am a baptized Sikh, I am fully fledged Sikh in appearance with full grown hair. I am Sikh, but clean shaven.

⁵ Undefined

⁶ To be taken in writing stating name, address and telephone number and deleting as appropriate at (2), and then signing

- (3) *I shall keep the Guru Nanak Gurudwara, Sedgley Street, Wolverhampton as an independent authority and shall not let it be the base of any Government or Missionary Saints*
- (4) *I am over 18 years of age.*
- (5) *I am a regular member of the Congregation of the Guru Nanak Gurudwara, Sedgley Street, Wolverhampton. And being obedient to its Constitution, I shall do my best to keep up the Honour of Sikh Religion to its maximum glory.*
- (6) *I regard the Sikh nation as Different and Unique. I do not believe in any religious factions. I Praying "Ardas" in the presence of Guru Granth Sahib, declare that I have read, heard the document of Oath of allegiance in detail, and I shall abide by these rules. Always respect the good name and high honour of the Abode of god, which shall get priority over and above myself".*
- 24 As is apparent, the Constitution does not delineate clearly between election processes, qualifications, and duties and responsibilities.
- 25 From the words of the Constitution, giving them their natural and ordinary meaning, the stages of electing the MC may be summarised as follows :
- (1) election of an election board of 5 Singhs by 11 specified persons (the Electing Officers and the then current 5 Singhs) before the first Sunday in May in an election year;
 - (2) on the first Sunday of May announcement of the names of the new election board of 5 Singhs to the congregation and seeking their recognition or acceptance;
 - (3) objection or recognition/acceptance from the congregation to the names announced;
 - (4) legitimate objection to any or all of the 5 Singhs causes the process of electing those of the 5 Singhs legitimately objected to to be repeated until 5 Singhs are recognised or accepted without legitimate objection on the part of the congregation;
 - (5) subject to legitimate objection, by the last Sunday in May the 5 Singhs are to elect each member of the MC unanimously or, if not unanimous, with the help of the Trustees;
 - (6) on the last Sunday in May the MC is established by announcement to the congregation and, subject to objection, getting the congregation's approval at that time;
 - (7) if there is legitimate objection by the congregation to any of the MC elected by the 5 Singhs, the 5 Singhs are to elect another suitable person and the process of announcement to the congregation and scope for objection recurs until all 25 members of the MC are approved by the congregation.
- 26 As to stage (1), in 2015 the 11 person election board were known because there was a serving MC and the then current 5 Singhs were also known. The Constitution requires the electors to "*consult with each other*" and to "*investigat[e] the suitable Sikhs*" before electing the 5 Singhs. No specific or formal requirement is specified for the consultation, however "*with each other*" carries with it a collective obligation to have some intercourse, verbal or written, passing between all 11 electors, in effect to meet for the purpose of electing the 5 Singhs. I take the requirement to investigate suitability to be a reference to the qualifying criteria set out under "*Election Board Of Five Singhs*" and also by the terms of the oath of allegiance required to be taken, and being satisfied that each person under consideration as one of the 5 Singhs meets all the qualification requirements under the Constitution, including the prohibitions (for example not being a Trustee or member of any other Sikh Temple Management Committee), and can properly take the oath.
- 27 The decision of the election board may be by a majority of at least 7 electors being in agreement in respect of each name under consideration. As an election board they

must consult with each other and investigate the suitability of those they consider. There are no requirements as to how the 7 or more are to reach or record their agreement.

- 28 As to stage (2), on the first Sunday in May “*the Chief of the old election Board*” is to announce the new election board of 5 Singhs to the congregation. The Constitution does not identify or provide for the identification of “*the Chief*”; that appears to be a matter for the 5 Singhs themselves or their election board. There is no issue as to who was the Chief in 2015⁷.
- 29 The Chief’s task is to announce the names of the 5 Singhs on the first Sunday of May and, subject to objection by the congregation, to get the congregation to recognise or accept those named persons as the 5 Singhs to elect the next MC. The Constitution leaves open how recognition or acceptance is to be signified. Show of hands is an obvious method; physical division is another; vocal acclamation is less satisfactory if there is objection because the volume of acclamation or dissent will not necessarily reflect the proportion of the congregation favouring or objecting to the new 5 Singhs.
- 30 There are numerous references to, but no definition of, “*the congregation*” in the Constitution. The term ‘the congregation’ would, in the context of a constitution for a religious organisation or body, be understood to be a reference to the body of people who assemble on a particular occasion to participate in organised worship.
- 31 There is no membership record or register, nor is attendance at the GNG for worship a matter of record. Thus, for the purposes of the Constitution, the congregation means those present at the GNG for worship at any particular time on any particular day. It follows that on any two different occasions when the congregation exercise any of their powers under the Constitution, including objecting, those who comprise the congregation or a majority of them on one occasion may be different people with different views from those who exercise the power of the congregation on the other occasion.
- 32 As to stage (3) and objection by the congregation, there are no provisions in the Constitution regulating or setting requirements for signifying or making an objection, or defining what constitutes the congregation objecting. The Constitution leaves these matters entirely open.
- 33 Accordingly, any attempt to limit or stipulate the means of signifying objection would be tantamount to writing something new into the Constitution and that that would, in my view, constitute “*inform[ing] or amend[ing] the Constitution*”. Any such limitation or stipulation would only be valid if approved in accordance with the procedure at “(a)” under “*Important Information*” in the Constitution. Thus, objection may be signified or made in any form, oral or written.
- 34 The effect of the provision in the Constitution for objection by the congregation is that the congregation must be afforded a genuine and reasonable opportunity to object. If, after affording the congregation such an opportunity when the names of the new 5 Singhs are announced by the Chief no objection is signified or made, the realistic inference to draw is that the 5 Singhs to elect of the new MC have been recognised or accepted by the congregation and have themselves been elected.
- 35 As to the meaning and effect of the phrase “*If congregation objects ...*”, this seems to me to require positive action. Following the Chief’s announcement of the names of the

⁷ Karnail Singh Cheema, a witness for Ds.

proposed new 5 Singhs, the Chief is required to seek their recognition or acceptance by the congregation. At that point the congregation has right under the Constitution to object.

- 36 What if an objection is not signified or made by the congregation as a body but is signified or made by a minority of the congregation or even by only one person? Common sense and fair dealing, particularly in the context of a registered charity, dictate that there must be a genuine and reasonable opportunity for the minority of the congregation, or an individual congregant, to state any objection to the congregation as a whole before they decide either to recognise or accept the election of the Singh(s) the subject of objection, on the one hand, or support or adopt the objection, on the other. The Constitution does not require that any objection should be settled there and then on the first Sunday in May. If practicable that would be desirable, but it is not obligatory. Further, there is no specified procedure for considering an objection. What matters is that, once signified or made, it is put to the congregation before the 5 Singhs can be recognised or accepted. The Constitution does not require unanimity, or any set proportion, either for recognition/acceptance or objection. To be effective any objection must satisfy two conditions : it must be by the congregation and it must be legitimate. As to being by the congregation, a simple majority of the congregation should be determinative.
- 37 Once an objection is stated, step (4) is engaged. For an objection to be effective it must be "*legitimate*". The Constitution does not define what constitutes a legitimate objection; it does, however, provide some guidance. There are qualification requirements and provisions for election as one of the 5 Singhs. For example, each must be "*baptized, observers of Sikh Five principles and living according to strict religious code and read Sikh scriptures daily*" and failure to meet any of these criteria would be a ground for legitimate objection. Each of the 5 Singhs must take an oath of allegiance (as set out above) and again inability to take the oath in its entirety truthfully or failure or refusal to take the oath would also be a ground for legitimate objection. There are further express disqualifications from service at the GNG, including a prohibition "*in ordinary conditions*" against any form of service for more than two years in succession, or having "*been proved disgraced or corrupt*", or being "*a member of Narankari, Radha-Swami, Darshan Dasia or any other party or organisation which is against the Sikh Religion*"; each of these would be a basis for legitimate objection by the congregation. This much is straightforward. Further, the election board is charged with "*investigating the suitable Sikhs*" and fulfilment of this duty on their part might be questioned by the congregation and dereliction form the basis for objection.
- 38 More difficult is the effect to be given to the overarching rule in the Constitution that "*In any matter relating to the Sikh Temple the ultimate decision shall be that of the Congregation*". On the application of this rule to the question of legitimate objection by the congregation, my view is that the decision of a majority of the congregation to object to one or more of the 5 Singhs announced on the first Sunday in May of an election year is legitimate, even if not based or capable of being based on any of the express qualifying or disqualifying criteria and requirements referred to above, provided it does not offend the "*concepts of honesty, good faith and genuineness, and need for absence of arbitrariness, capriciousness, perversity and irrationality*" referred to in Evangelou and others v McNicol. As I see it, any more restrictive view of what constitutes legitimate objection by the congregation would fail to afford proper recognition to the authority conferred on the congregation by the Constitution. It also follows from this that what constitutes legitimate objection is, within the GNG, ultimately a matter for the congregation and not for its officers. Of course, beyond that, as further arbiters if the

decision of the congregation is challenged, there are both the Charity Commission and the court.

- 39 If there is a legitimate objection, the Constitution provides that another member should be elected. No different procedure is stipulated, accordingly it would be for the election board to repeat the election process and obtain the congregation's recognition or acceptance of a candidate to whom there is no legitimate objection.
- 40 As to step (5), election of the MC by the 5 Singhs, the Constitution requires them to elect the MC unanimously, or, if not unanimous, with the help of the Trustees.
- 41 In so doing the 5 Singhs should address each of the offices to be filled by reference to the aims and objectives of the GNG, the qualifications and duties to be fulfilled as specified in the Constitution, and the oath required to be taken by the person elected by them. The Constitution stipulates as a condition of election by the 5 Singhs that each MC office-bearer and member shall be properly qualified. The 5 Singhs should also have in mind the equality provision in the Constitution under the heading "*The Management Committee ... Important Note : ... (d)*" that "*In each sphere of service being done men and women shall have equal rights*" and the debarring conditions in the Constitution (in particular, not to serve two successive two year terms, proven disgrace or corruption, and membership of proscribed parties and organisations). At some point before concluding their election the 5 Singhs should obtain the prospective MC member's confirmation of willingness to serve and obtain the relevant oath.
- 42 If the 5 Singhs do not involve the Trustees, the obligation of the 5 Singhs is to have agreed unanimously upon each office-bearer and each general member elected to the MC.
- 43 As to time frame. The Constitution envisages the 5 Singhs electing the MC in the interval between the first and last Sundays in May. That is not a mandatory requirement, for obvious reasons, for example where delay is caused by objection by the congregation to any of the 5 Singhs, or by lengthy deliberations in an attempt to reach unanimity, or by the need to involve the Trustees. It may not be possible to elect the MC before the last Sunday in May; but, absent good reason, that time constraint should be met.
- 44 As to step (6), the 5 Singhs are to announce the new MC at the GNG to the congregation on the last Sunday in May. If the election is not complete, the implication of the Constitution is that the announcement by the 5 Singhs should be at the GNG to the congregation on the first Sunday following completion of the election.
- 45 The response of the congregation to announcement of the MC is required to be "*approval*". This is not a precise repetition of the electing response of the congregation to announcement of the 5 Singhs "*recognition or acceptance*". However, the trigger for deselecting a person elected to the MC by the 5 Singhs is objection by the congregation. Accordingly, it is not clear that any more formal or positive response should be required of the congregation when approving as distinct from when recognising or accepting an election announcement.
- 46 As to step (7), the principles as to what constitutes legitimate objection by the congregation are the same as for legitimate objection to the 5 Singhs, although the election requirements and the qualification criteria are different.

The Issues : (2) Was the election of 5 Singhs on 2.5.15 valid?

- 47 Although there is intense disagreement between the opposing parties and their respective witnesses as to whether the elections in 2015 were valid, the core relevant evidence as to what occurred when the election board met on 2.5.15 is not strongly disputed, or is at least reconcilable.
- 48 In the lead up to the May 2015 elections, and since about mid 2014, the then current MC had been unable to function effectively. In addition, the issue as to making reasonable provision for the disabled and elderly attending the GNG was ongoing. This background added to the importance of adhering to the Constitution in the 2015 elections.
- 49 Evidence as to the meeting of the election board on 2.5.15 to elect the 5 Singhs was given by Gurdial Singh Dhaliwal ('Mr Dhaliwal'), then General Secretary of the GNG, for Cs. Evidence for Ds as to the meeting on 2.5.15 was given by Balbir Singh Randhawa then President of the GNG, Sital Singh Sarai then Treasurer of the GNG, Karnail Singh Cheema ('Mr Cheema') chief of the then 5 Singhs, and Karnail Singh Garcha, Piara Singh and Shangara Singh Sangha, three of the then 5 Singhs. Further evidence about events on 2.5.15, in particular of being informed of election as one of the 5 Singhs and asked to serve for the period 2015-2017, was given by Bhurvinder Singh ('Mr B Singh'), Gurpreet Singh Dhillon ('Mr Dhillon') as witnesses for Ds.
- 50 On the evidence, the meeting of the election board was left until the day before the first Sunday in May because, at different times, a number of the electors were abroad or otherwise unavailable. There is no material conflict in the evidence as to the meeting itself. After introductory pleasantries, Mr Dhaliwal raised with Mr Cheema an agreement made in 2013 with the then 5 Singhs in order to induce certain individuals, specifically Mr Dhaliwal, Lakha Singh ('Mr L Singh') and Surinder Singh Sandhu ('Mr S Sandhu'), to serve on the 2013-2015 MC. This agreement was that the 5 Singhs to be elected in 2015 would be balanced and include three names proposed by them. At the meeting on 2.5.15, Mr L Singh identified five names. Objection was taken, including on the grounds that some of those proposed supported making adjustments for the differently abled and elderly by providing unsegregated seating amongst the congregation and also on the grounds that the implementation of such an agreement would be contrary to the Constitution. Mr L Singh proposed a vote on one name which was supported only by Mr Dhaliwal, Mr S Sandhu and Malhar Singh Badh ('Mr Badh'). Realising that the agreement of 2013 would not be honoured, Mr L Singh and Mr Dhaliwal left the meeting followed shortly thereafter by Mr S Sandhu and Mr Badh.
- 51 That left seven members of the election board. Their evidence is that after lengthy deliberations they unanimously elected five individuals, one of whom was on Mr L Singh's list, as the next 5 Singhs with two reserve names in case objections were made. There is some evidence as to the nature of the discussions between the remaining seven electors : they looked to choose people who would work together smoothly, some younger members, people who follow the Sikh code of conduct, and are "*amrit dhaar*". Whether all the requirements under the Constitution were considered in respect of each candidate is unclear. However, that is a matter which the congregation would have the right, through objection, to enquire into upon announcement of the 5 Singhs and before recognition or acceptance. Mr B Singh and Mr Dhillon gave evidence of being contacted during the evening of 2.5.15 and asked to state whether they were willing to serve as members of the 5 Singhs.
- 52 That the election of 5 Singhs by the election board was not the product of investigation and deliberation by all eleven members was not the fault of the seven who remained at

the meeting. Pre-selection by some agreement or arrangement made without including all eleven electors would be unconstitutional, as would be election without proper consultation and investigation.

- 53 The seven members of the election board who remained were quorate and, having reached a unanimous decision on all five 5 Singhs and having obtained the consents to serve of the 5 Singhs they had elected, announcement to the congregation on 3.5.15 was appropriate.

Issue (3) : On 3.5.15 did any member(s) of the congregation make any legitimate objection to one or more persons elected by the election board? If not and in default of legitimate objection then, were the 5 Singhs deemed recognised or accepted by the congregation (ie validly elected)?

- 54 There is a degree of agreement as to what occurred when the names of the 5 Singhs elected on 2.5.15 were announced to the congregation on 3.5.15. Evidence as to these events was given for Cs by Mr Dhaliwal, Amrik Singh, Iqbal Kaur, Pardeep Basi, and Sukhbinder Singh Sandhu ('Mr S S Sandhu'). Evidence for Ds was given by those of Ds' witnesses who were members of the election board and those elected as members of the 5 Singhs in 2015, and Gurnek Singh Dhadwar, D2, Rana Ramnik Singh and Teja Singh Sidhu ('Mr T Sidhu'). The evidence at trial also included a transcript and film of events.

- 55 The announcement of the new 5 Singhs was made by Mr Cheema. Mr Cheema prefaced the announcement of the 5 Singhs by stating that the election was carried with a 7:4 ratio and that if there were to be objections the objection and evidence or proof should be put in writing and could then be discussed. Mr Cheema then announced the 5 Singhs. This prompted objections. Several of Ds witnesses identified by name at least two members of the congregation who stood up to object and stated that other members of the congregation also stood up and signified the fact that they objected. Several of Ds' witnesses stated that they or others then stood to attempt to restore calm; this is the controversial aspect of the evidence and it is countered by evidence of Mr S S Sandhu supported by Cs' witnesses that, far from attempting to restore calm and order, supporters of Ds' position stood up and jostled those objecting to the announcement. Witnesses for both Cs and Ds make the point that to stand up in the worship hall, other than to enter or leave or take the stage, could be seen as disrespectful to the Guru Granth Sahib and is a serious matter.

- 56 Having considered the evidence, including the film and transcript evidence, my conclusion is that there was a body of the congregation who objected, or sought to object, to the announcement of the 5 Singhs; the objections prompted supporters of the announcement to stand and remonstrate with the objectors; this resulted in a commotion within the worship hall immediately following the announcement of the 5 Singhs, which extended to some of those opposed to the views of objectors also standing up and jostling them. Mr Cheema required that any objection be put in writing and submitted with evidence. Under the Constitution, Mr Cheema was not entitled to impose those requirements in relation to objection by any member of the congregation.

- 57 Mr Cheema gave evidence, supported by witnesses for Ds, that he sought to restore order by asking the objectors to leave and go downstairs to the social and office areas, which they did. A number of Ds' witnesses, including D2, gave evidence that after the worship hall had been cleared of objectors, or at least those who stood to voice their objection, Mr Cheema announced that the election of the 5 Singhs had been successfully completed. The transcript shows that Mr Cheema announced that the 5

Singhs should decide upon their chair (i.e. the Chief) and “*begin the process of selecting a new committee according to the constitution*”.

- 58 Cs’ objections in this case include that by announcing the election of the 5 Singhs as having been voted on 7:4 the congregation was misled into thinking that all eleven electors had participated throughout the election process or, at any rate, that the congregation were only told part of the truth as to the election on 2.5.15 and were not given the opportunity to reflect on the fact that the four electors who left the meeting on 2.5.15 did not participate in consideration of four of those who were elected. That, in my view, would not be a decisive basis on which to declare the election of the 5 Singhs invalid, at least not if there was an opportunity for any of the electors who left, or others, to make that clear from the floor of the congregation on 3.5.15.
- 59 In my judgment there are two important vitiating factors.
- 60 The first is that Mr Cheema declared that objections had to be made in writing and supported by evidence. He justified this in his evidence by reference to or assertion of a custom. Thus, Mr Cheema implicitly recognised that the Constitution does not prescribe writing as the method of objecting. There is evidence of past objections having been put in writing, but that is not sufficient to establish a custom. Even if there was such a custom, it could not displace the right of the congregation under the Constitution to voice, as opposed to write, any objection. Denying the congregants the opportunity to state any objection vocally in the presence of the congregation as a whole was contrary to the Constitution.
- 61 The second factor is that the opportunity for the congregation to make and consider objections was effectively denied by Mr Cheema asking the objectors to leave the worship hall and then announcing that the 5 Singhs should go on to elect the MC, implicitly signifying the validity of their election. The congregation were denied a genuine and reasonable opportunity to consider objections from congregants who had made clear their wish to object. That the congregation were denied a proper opportunity to object is borne out by the speed with which the new 5 Singhs elected the MC.
- 62 The second is the more cogent of the two reasons. In combination they provide a compelling reason to find, which I do, that on 3.5.15 the congregation were denied the opportunity to object to the 5 Singhs elected on 2.5.15.
- 63 It is no answer that only a minority of congregants left the worship hall and that when Mr Cheema announced that the election of the 5 Singhs had been successfully completed there were no further objections because the congregation had been denied the opportunity to hear and consider objections. The outcome of that cannot be presumed.
- 64 It is also no answer that the acclamation of the Jakaara occurred and represented acceptance of the 5 Singhs. The acclamation may be made and understood in a number of ways, both for and against. More importantly, denial of the opportunity to object cannot be overridden by acclamation without consideration of the objection.
- 65 Some reasons were put in writing in letters dated 8.5.15. Their legitimacy or otherwise is beside the point, what matters is that the congregation as a whole were not afforded a proper opportunity to object before the 5 Singhs were announced as successfully elected.

- 66 That renders their election at least incomplete, if not invalid. Answering the issue as asked : the 5 Singhs were not, and were not deemed, recognised or accepted by the congregation and, therefore, have not been validly elected.
- 67 It follows from this that the 5 Singhs had no authority to elect the MC and the MC could not have been validly elected. That is determinative of the case. Consideration of the other issues is not essential to this judgment.

The Issues : (4) Did the 5 Singhs validly elect and appoint a new MC?

- 68 My findings are without prejudice to the conclusion reached on Issue (3) and are, strictly, mere observations.
- 69 The evidence as to election of the new MC was brief. Mr S S Sandhu's evidence was that the process of electing all 25 members of the MC takes weeks and had never before been completed within 7 days. He also said that he was present at the GNG every day in the period 3-10.5.15 and that the 5 Singhs were not present when he was there.
- 70 The 5 Singhs' evidence of their election deliberations was also brief. Mr B Singh and Mr Dhillon referred to meeting at the GNG in committee room 4 on 4.5.15 at 7.00pm and subsequently on 7, 8 and 9.5.15 with the new MC members signing their oaths on the latter two days. Mr Dhillon said that by the end of the meeting on 7.5.15 all members had been chosen and telephoned. That there were three or four meetings is corroborated by others of the 5 Singhs. Jaswinder Singh Sandhu said that the list of all 25 MC members was settled on the first meeting and telephone calls also started then. Mr T Sidhu gave evidence of being telephoned and asked if he would serve as Assistant General Secretary and then attending a meeting to take the written oath.
- 71 The evidence as to the consideration given by the 5 Singhs to the qualifications and requirements, the disqualifying criteria, or the equality principle enshrined in the provisions in the Constitution about the MC was not detailed. However, any congregant surprised at the speed with which that election was completed, or concerned that all the requirements in the Constitution had not been addressed, had a right under the Constitution to challenge the election and seek details of the consideration given to any or all elected to the MC by objecting when the announcement was made.
- 72 On the evidence before me, while it is somewhat surprising that full consideration, applying the Constitution, could be given to the election of all 25 members of the MC at a single meeting beginning at 7pm, that alone would not suffice as the basis for an adverse finding about the election of the MC by the 5 Singhs. If the 5 Singhs had been in a position to elect the MC validly, the deliberations of the 5 Singhs would be open to challenge by the congregation; but, if not challenged and if there was no legitimate objection on other grounds, it would lead to acceptance of the MC.

The Issues : (5) On 10.5.15 did any member(s) of the congregation make any legitimate objection to one or more persons elected to the MC by the 5 Singhs? If not and in default of legitimate objection then, was the MC deemed approved by the congregation (ie validly elected)?

- 73 Again, my findings are without prejudice to the conclusion reached on Issue (3) and are, strictly, mere observations.

- 74 All nine of the witnesses for Cs and 14 (of the 15) witnesses for Ds gave written and oral evidence about the events of 10.5.15. In addition, film and transcript evidence were adduced.
- 75 The meeting at the GNG started with the Stage Secretary, Mr L Singh, referring to the division within the GNG and, notwithstanding that the 5 Singhs proposed to announce the new MC, asking for the announcement to be postponed for a week. Mr L Singh then invited Tarsem Singh, then Vice President, ('Mr T Singh') to take the stage. Mr T Singh explained why he considered that the election of the 5 Singhs was valid. Mr T Singh invited the 5 Singhs onto the stage and, before the 5 Singhs could announce the MC, members of the congregation voiced objection to the election conducted by the 5 Singhs and to the status of the 5 Singhs. Mr B Singh, as the chief of the new 5 Singhs, then announced the officers and general members of the MC. During this, Mr S S Sandhu and others stood up and objected to the announcement and the names announced. This prompted contrary objections from the congregation and a general commotion. A number of objectors left and went downstairs to the office. Subsequently, the congregation came downstairs. Many went to the food hall, but many remained in the lobby outside the office. There was a commotion in the office and an alleged assault. The police were called. A number of witnesses refer to the 2015 elections being unprecedented for strength of feelings and disruption.
- 76 It is clear from the filmed, written and oral evidence that there were members of the congregation who wished to oppose some or all of those elected to the MC by the 5 Singhs and also to oppose the election of the 5 Singhs themselves.
- 77 It is also clear from the evidence that those objections were not properly put to the congregation for consideration and remain unresolved. This is principally because the newly elected 5 Singhs were not prepared to countenance objection to their choices for the MC and others in the congregation, supporting the outcome of the elections, obstructed the due process of electing in accordance with the Constitution.
- 78 Whether or not the objections represented the will of the congregation and were legitimate cannot be determined for the very reason that the objections were effectively stifled when sought to be raised.
- 79 It is no answer to say, as some of Ds' witnesses have, that to date no objection has been received in respect of any member of the MC.
- 80 On the evidence before me, and assuming for this purpose that the election of the 5 Singhs and their deliberations in the period 3-9.5.15 are not open to legitimate objection, I nevertheless conclude, without hesitation, that the MC was not validly elected because the congregation was denied the opportunity to make and consider objections to all or any of the 25 names chosen by the 5 Singhs.

Issue (6) Is there any fatal constitutional shortcoming or procedural lapse that warrants the removal of the current 5 Singhs and/or the current MC from office immediately?

- 81 The 5 Singhs usurped their office by regarding themselves as duly elected, by purporting to act with due authority and proceeding to elect a new MC in May 2015. At present, they themselves have not been duly elected. Strictly, there is nothing to dismiss or remove them from.

- 82 The MC chosen by the 2015 5 Singhs, by carrying on as if duly elected and acting as the MC as from May 2015, has at all times acted beyond its powers. The MC has not been duly elected to office. Strictly, there is nothing to dismiss or remove them from.

Conclusion

- 83 On my findings, the 2015 elections have not resulted in the GNG having either a validly elected board of 5 Singhs or a validly elected MC. Election of the MC could not even begin until after the valid election of the 5 Singhs.
- 84 The failing which caused this state of affairs is the disregard of the congregation's right to object. This is an overarching principle in the Constitution. The congregation is the ultimate decision maker within the GNG. Its disregard is fatal to the validity of the 2015 elections.
- 85 As to what should happen, on one view the congregation should be given an opportunity to voice and consider objection to each of the 5 Singhs announced on 3.5.15. Once there are 5 Singhs who are recognised or accepted without legitimate objection, they should elect the MC and the congregation should have an opportunity to accept or object to each person so elected. On another view, that put forward by Mr Khangure QC on behalf of Cs, both the election board of 5 Singhs and the MC should be dismissed or removed and, in accordance with the Constitution⁸, the Trustees take over administration of the GNG. The Trustees should name 5 Singhs and those 5 Singhs should elect the MC. Although this latter course has attractions (including being time efficient) the election board of 5 Singhs is not dismissed, the GNG is only part way through its own election process of the May 2015 elections.

⁸ The method of electing the board of five Sikhs at paragraph (6)