

# GURDWARA AND THE AAD GURU GRANTH SAHIB: A LEGAL PERSPECTIVE

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## ABSTRACT

*The Aad Guru Granth Sahib (AGGS) is the living and eternal Guru of the Sikhs. Gurdwara is a public place of worship where the AGGS is installed. A Gurdwara becomes a hallowed institution because Guru of the Sikhs, the AGGS, is majestically displayed over there. The Sikh Gurdwara Act, 1925 prescribes conditions on the fulfillment of which an institution can be declared a Sikh Gurdwara. These relate to the establishment and user of the institution. The Supreme Court of India has rightly said, “the sine qua non for an institution being a Sikh Gurdwara is that there should be established AadGuru Granth Sahib and worship of the same by congregation and a Nishan Sahib (flag). The installation of the AGGS is nucleus or nectar of any Gurdwara. It is very heart and spirit of Gurdwara”. The Sikhs who quarrel in the Gurdwaras seem to be oblivious of the presence of the Guru. They openly show disrespect to the Guru by their discourteous behavior. Clean and efficient administration of the abodes of the Guru and proper utilization of their income and property will be the real homage to the living Guru, the AGGS.*

## INTRODUCTION

The simple and noble teachings of Guru Nanak attracted the people towards him who became his followers (Sikhs). These disciples of Guru organized themselves into congregations (*sangat*) at different places. The *sangat* met almost daily and recited *Gurbani*, which was later incorporated into a *Pothi* (*Granth*) that is now known as the Aad Guru Granth Sahib (AGGS) [3]. The meeting place of Sikh *Sangat* came to be designated as Gurdwara. The Gurdwaras sprouted all over wherever the Gurus put their feet or had their influence. This institution became the focal point for the community where the Sikhs met for religious and social purposes.

## AAD GURU GRANTH SAHIB

Guru Arjan compiled *Bani* of the first four Sikh Gurus and of his own into a *Pothi* (*Granth*). Besides that he also included the holy contributions of thirty other saintly persons belonging to different regions, religions and castes into this *Pothi* in 1604 CE. After compiling the *Pothi*, Guru Arjan declared, “The Holy Granth is equivalent to the Transcendent Entity.” (*Pothi Parmesar ka than... AGGS, M 5, P 1226*) [1]. Since in the old and the current literature the Sikh Granth has been addressed differently by different scholars so to keep uniformity it has been mentioned in this article as the *Aad Guru Granth Sahib* (AGGS) [3] irrespective of the title used by other authors. The holy Word or *Sabd* Guru as contained in AGGS has got the prominent place in Sikhism from the right beginning. Guru Arjan

offered great reverence to the AGGS ever since its compilation, he put it on a higher pedestal and sat and slept besides it on the floor. Guru Gobind Singh added the *Bani* (Word) of Guru Teg Bhadur sometime during 1705 CE and reiterated that the *Sabd* of the Gurus, incorporated in the AGGS, is the Guru for the Sikhs. Dr Radhakrishnan, the second President of Indian Union, has rightly described the Holy Scripture as “*the living voice of all prophets and preceptors.*” [12].

The revered Scripture has got the status of a living Guru for the Sikhs. The Sikhs are the followers/ worshippers of Holy Word (*Bani*) that are embodied in the Aad Guru Granth Sahib. The Holy Word is about the Eternal Truth or God. The Indian Supreme Court has rightly observed: “*No doubt the Sikh Scripture, Guru Granth Sahib, is a sacred book but it cannot be equated with the sacred books of other religions as the reverence of Guru Granth Sahib is based on different conceptual faith, belief and application in comparison to other sacred books. It is the living and eternal Guru of the Sikhs.*” [15]

It is also to be noted that the Supreme Court of India has accepted the Aad Guru Granth Sahib as a legal or juristic person. The Judges said, “*We unhesitatingly hold Guru Granth Sahib to be a juristic person.*” [15]. It is quite in consonance with the status of the Aad Guru Granth Sahib as a living Guru.

## GURDWARA

With the development of Sikhism Gurdwaras emerged at

different places. The Sikh *sangat*, which had attained a status similar and even superior to that of Guru, used to meet at Gurdwaras for religious and social purposes. The AGGS was also installed in the Gurdwaras when its copies became available.

Gurdwara is a hallowed institution of the Sikhs where the Aad Guru Granth Sahib is majestically installed and displayed. Gurdwara is thus a meeting place of *sangat* and seating place of the Aad Guru Granth Sahib. It is an integral part of the Sikh faith. Sikhs and Gurdwaras are inseparable, where there are Sikhs there are Gurdwaras. The presence of Gurdwara in the neighborhood of Sikhs is indispensable. The Gurdwaras are the centres of religious and social life of the Sikhs since the right beginning. In fact the Sikh history revolves around the Gurdwaras.

When the Sikhs had to flee to the jungles due to their large-scale persecution, the Gurdwaras were looked after by a kind of informal Sikhs who did not conform to the outward symbols of Sikhism. They were mostly Nirmalas and Udasis and they managed the Gurdwaras fairly well in those difficult times. During the period of Misls and Sikh rule in Punjab, the chieftains and Maharaja Ranjit Singh heavily endowed the Gurdwaras. Due to the slackness on the part of Sikhs, Brahminvad and ritualism entered the arena of Gurdwara. After the advent of Britishers in Punjab, the hereditary *Mahants* continued to manage the Gurdwaras and their property. They started converting the Gurdwara property into their personal one in connivance with the Government. The Sikh agitations compelled the Punjab Government to pass the Sikh Gurdwara and Shrines Act 1922 and then to replace it with the Sikh Gurdwara Act, 1925 [17]. These Acts were passed to "provide for the better administration of certain Sikh Gurdwaras and for inquiries into matters and settlement of disputes connected therewith."

The former Act defined 'Gurdwara' and 'Shrine' which were referred to in the Act as follows:

*"Gurdwara means a Sikh place of public worship erected by or in memory of or in commemoration of any incident in the life of any of the Ten Sikh Gurus."*

*"Shrine means a Sikh place of public worship erected in the memory of a Sikh Martyr or a Sikh Saint."*

These definitions did not include all the Sikh Gurdwaras. The non-historic Gurdwaras remained outside the purview of this Act. Besides, the Sikhs did not relish the term 'shrine' as distinguished from 'Gurdwara'. For them, wherever the Aad Guru Granth Sahib is installed, that is a Gurdwara. These were the reasons, inter alia; that the Act was rejected by the Sikhs and it remained a dead letter.

**The Sikh Gurdwara Act 1925** [17]: This 1925 Act was framed in consultation with the Sikh representatives though it was a compromise with the prevailing situation. The interpretation clause of this Act does not define 'Gurdwara', though the terms 'Gurdwara' and 'Sikh Gurdwara' are frequently used in the Act. While 'Sikh Gurdwara' is used for Sikh religious places but the use of word 'Gurdwara' is not confined to the Sikh institutions. Term 'Gurdwara', as used in the Act, may be a non-Sikh shrine also. But such a meaning cannot be attributed to the term beyond the purview of the Act as 'Gurdwara' is exclusively used for Sikh places of public worship. Thus, the Act attributes different meanings to the two terms; 'Gurdwara' and 'Sikh Gurdwara' even though practical and literal use of both the terms does not connote different meanings.

The Act constituted a Sikh Gurdwara Tribunal mainly to decide whether a particular institution is a Sikh Gurdwara or not. Section 16 (2) of the Act provides:

The Tribunal shall declare an institution to be a Sikh Gurdwara if-

- (I) it was used for public worship by Sikhs before and at the time of the presentation of the petition, **and**
  - (II) (i) it was established:
    - (a) by any of the ten Gurus or
    - (b) in memory of a Sikh Guru, martyr, saint or historical person or
    - (c) in commemoration of any incident in the life of any of the ten Sikh Gurus or
    - (d) for use by Sikhs for the purpose of public worship;
- or**
- (ii) Owing to some:
    - (a) tradition connected with one of the Ten Sikh Gurus, or
    - (b) incident connected with Sikh religion.

Thus Section 16 (2) requires the fulfillment of two conditions declaring an institution to be a Sikh Gurdwara. One relates to the establishment of the Gurdwara and the other to its user. The Supreme Court of India emphasized that the use of conjunctive "and" in various clauses of Section 16 (2) requires two conditions to be cumulatively satisfied [13].

Most of the litigation in this regard was concerning with clause (iii) of Section 16 (2) which provided that an institution shall be declared as a Sikh Gurdwara if the Tribunal/court finds that it -"(iii) was established for use by Sikhs for the purpose of public worship and was used for such worship by Sikhs before and at the time of the presentation of the petition....."

This clause required the fulfillment of two essential conditions—

- (a) Gurdwara was established for public worship by Sikhs, and
- (b) it was used as such.

The Courts required that both the conditions have to be satisfied for declaring an institution to be a Sikh Gurdwara. If one of the conditions is not satisfied, the onus on the petitioner is not discharged and two essential ingredients are not proved.

The Supreme Court while deciding a case under Section 16 (2) (iii), observed:

Before a Gurdwara or an institution could be declared as a Sikh Gurdwara, it must be established that it was founded at its inception by the Sikhs for public worship. The new fact that it was actually being used for public worship before and at the time of presentation of the petition is of no help singularly.” [14].

In order to bring the institution within the definition of clause (iii), sub-section (2) of Section 16 of Punjab Sikh Gurdwaras Act, it is necessary to prove not only that the institution has been used for public worship but also, independently, that it was founded for such worship.

The institution may be established by anyone, may be a Sikh or follower of any other faith, but it must be established for use by the Sikhs, it will be a Sikh Gurdwara on the fulfillment of both the conditions.

As the Government sympathized with the *Mahants* and was disposed against the Sikh reformers, it tried to incorporate strict provisions in the Act for the declaration of an institution as a Sikh Gurdwara. The burden of proof was put on the Sikhs to prove the fulfillment of the various conditions for the declaration. No implication or inferences are allowed to be drawn and direct, cogent and independent evidence is required for the purpose.

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When the institution in question was established by Sikhs for public worship and was used as such. The Aad Guru Granth Sahib was recited therein, the office-holders were Sikhs, and the Sikhs had made the grant for construction. It was held to be a Sikh Gurdwara.

Merely because some Hindus went there for worship of the Aad Guru Granth Sahib does not make it a Hindu institution [9].

When it became known that the Sikh Gurdwaras Act is providing for handing over all the places of Sikh worship (Gurdwaras) to the statutory Committees; the *Mahants* started converting Gurdwaras to non-Sikh institutions and creating evidence to disprove the places as Sikh Gurdwaras. They constructed *samadhs*, stopped reading and worshipping of the Aad Guru Granth Sahib. Besides them, some ill-informed people became so panicky that they removed the Aad Guru Granth Sahib from their homes also so that these may not be declared as Sikh Gurdwaras.

In a case [16] before the Lahore High Court, the *Mahant* asserted that the institution is a *Dharamsala* and not a Sikh Gurdwara, its *Mahants* have been *Udasis* from the date of its inception and there are *Samadhs* within its premises. On the other hand it was proved that Guru Granth Sahib is worshipped there, the population of village is Sikh and the *Samadhs* came into existence when the *Mahant* realized their importance after the Sikh Gurdwara controversy became active. It was held to be a Sikh Gurdwara.

The Supreme Court has held that a building cannot be called as a Sikh Gurdwara without the presence of the Aad Guru Granth Sahib:

*“the central object of worship in a Gurdwara is Sri Guru Granth Sahib, the holy book and sine qua non for an institution being a Sikh Gurdwara is that there should be established Guru Granth Sahib and worship of the same by congregation, and a Nishan Sahib” [10]. Further “when Guru Granth Sahib is installed in any Gurdwara it becomes the sacred place of worship. Sacredness of the Gurdwara is only because of the placement of Sri Guru Granth Sahib in it.....The installation of Sri Guru Granth Sahib is nucleus or nectar of any Gurdwara. If there is no Guru Granth Sahib in the Gurdwara, it cannot be termed as a Gurdwara. When one refers a building to be a Gurdwara, he refers it so only because of Guru Granth Sahib is installed therein.....It is very heart and spirit of Gurdwara.”[15].*

Presence of the Aad Guru Granth Sahib is must for public place to be called a Sikh Gurdwara. But converse is not true; every place where the Aad Guru Granth Sahib is installed is not a Sikh Gurdwara. Some non-Sikh institutions, which are not Gurdwaras, do revere and worship the Aad Guru Granth Sahib.

#### UDASIS

*Udasis* do not fall within the definition of Sikh, as their belief is not restricted only to the teachings of ten Gurus and the Aad Guru Granth Sahib. The Supreme Court of

India has held that the *Udasis* form an independent sect. They are midway between the Sikhs on the one hand and Hindus on the other. In an institution of an *Udasi* sect, one can visualize reading of the Aad Guru Granth Sahib or veneration of the Sikh scriptures. But that itself is not decisive of the character of the institution [13]. The Highest Court has also observed [18]:

The *Udasis* are sect distinct from the Sikhs. They are the followers of Baba Sri Chand. Unlike the Sikhs they sometimes worship the idols and *Samadhs* of their monastic ancestors. They worship other objects too, such as ball of ashes etc. They are considered to be Hindus and at times called Sikhs in the wider sense of the term. They bear reverence to the Aad Guru Granth Sahib and read it without renouncing Hinduism. An institution of this kind where an *Udasi* recites the Aad Guru Granth Sahib in the presence of Sikh congregation by itself is not enough to declare the institution to be a Sikh Gurdwara, unless it stands proved that the institution was established for use by the Sikhs for the purpose of public worship and was used for such worship by the Sikhs as per the requirements of Section 16 (2) (iii) of the Act.

Earlier the Privy Council in *Hem Singh v. Basant Dass* [7] noted the distinction between Sikhs and *Udasis* and pointed out that *Udasis* venerate Sikh scriptures. So the *Udasi* institution cannot be termed as a Sikh Gurdwara simply because the Aad Guru Granth Sahib is read and venerated there. So far as the recitation of the Aad Guru Granth Sahib in the institution in dispute is concerned, it is well known that the *Udasis* used the same sacred writings as the Sikhs and the recitation of the Aad Guru Granth Sahib is very common feature [8]. "If the institution is established by *Udasi* sect but later reading of the Aad Guru Granth Sahib also commenced there, that would neither be decisive of the character of the institution nor sufficient to bring the institution within Section 16 (2) (iii) of the Act."

An important observation of the Lahore High Court in a case relating to an institution where the Aad Guru Granth Sahib was venerated and some *samadhs* also existed, is worth to be noticed:

*"No doubt the evidence that the Granth Sahib has from the earliest times been read in the Dharamsala will not by itself be conclusive evidence that the Dharamsala is a Sikh Gurdwara. But there are cases in which such evidence is of great importance. It might be the determining factor in arriving at the conclusion regarding the purpose for which a particular institution was founded... There is no authority that an institution containing a smadh cannot be a Sikh Gurdwara, although no doubt worship of a smadh is opposed to orthodox Sikhism [6]."*

**Udasi Mahant of Sikh Gurdwara:** It has been a usual phenomenon that *Udasi Mahants* managed the Sikh Gurdwaras. In a case before the court the *dharamsala* in question was situated in a Sikh village, it was the only place of worship, the Aad Guru Granth Sahib was read there but the *Mahant* was an *Udasi*. It was held that the fact that the *Mahants* had been all *Udasis* was a feature common to many Gurdwaras admitted to be Sikh and that the *dharamsala* in question was a Sikh Gurdwara [4]. In another case, there was worship of the Aad Guru Granth Sahib in the institution. It was held that the institution is a Sikh Gurdwara though *Udasis* always had been incumbents [11]. In *Gulab Dass v. Foja Singh* [6], it was held that it was very common, if not usual, for Sikh *Dharamsalas* to be managed by the *Udasis* whom the Sikhs regarded as their priests and employed them as such. The fact that a particular institution was a resting place and a *langar* hall as well as the one in which the Aad Granth Sahib is recited will not exclude the possibility of that institutions having been founded and subsequently used for public Sikh worship.

**Juristic Persons:** The Aad Guru Granth Sahib and Gurdwara, both are held by the courts to be juristic persons. Gurdwara was held to be a juristic or a legal person long back and the Aad Guru Granth Sahib is held to be a juristic person by the Supreme Court only recently in 1999. The Court held that there is nothing wrong in the existence of two separate juristic persons in the same precincts. When one refers to a building to be a Gurdwara, he refers it so only because the Aad Guru Granth Sahib is installed therein. If Gurdwara is held to be a juristic person, it is because it holds the Aad Guru Granth Sahib. They are not two separate juristic persons they are one integrated whole [15].

## CONCLUSIONS

The hub of Sikh life is their eternal Guru, the Aad Guru Granth Sahib, and the Gurdwara. Both are the hallowed and basic institutions of the Sikh faith. Both are so interwoven that they cannot be separated from each other. A public place cannot be called as Gurdwara unless the Aad Guru Granth Sahib is installed there. The existence and sacredness of Gurdwara is only because of the presence of Guru Granth Sahib. Presence of Guru Granth Sahib is essential for a place to be a Gurdwara.

Where there is a Gurdwara, the Aad Guru Granth Sahib has to be there, it is only because of the Aad Guru Granth Sahib that the former is called a Gurdwara, but converse is not true. All the places where the Aad Guru Granth Sahib is present are not Gurdwaras. The Aad Guru Granth Sahib is kept at private houses also; every such house is not a Gurdwara. Gurdwara is not a private house or property but a public place playing multifarious

role in the life of Sikhs. So every public place of Sikh veneration where the Aad Guru Granth Sahib is installed is a Gurdwara. All the public places having presence of the Aad Guru Granth Sahib are not essentially Gurdwaras. In some institutions especially of *Udasi* sect the Aad Guru Granth Sahib is revered as a sacred book. As *Udasis* are not considered as Sikhs for not having the exclusive faith in ten Sikh Gurus and Guru Granth Sahib, these institutions are also not Sikh Gurdwaras. So the places of public worship which are confirmedly non-Sikh, do not become Gurdwaras even with the presence of the Aad Guru Granth Sahib.

Now the question arises should the non-Sikh places of worship be allowed to adore the Aad Guru Granth Sahib. There is nothing wrong if the Aad Guru Granth Sahib occupies and commands a special position and status in those religious institutions. But if it is considered simply another religious book, those institutions should be asked to accord special status to the Aad Guru Granth Sahib. In case they cannot have the proper upkeep they should be asked to hand it over to the Sikhs. They may have the Holy Scriptures in parts, if it is so required for comparative study and research.

No doubt the Aad Guru Granth Sahib is a sacred scripture but it cannot be equated with other sacred books like Bible, Quran, Geeta, etc. the Supreme Court has noted the distinction and observed:

*“Guru Granth Sahib is revered in Gurdwara like a Guru, which projects a different perception. It is the very heart and spirit of the Gurdwara. The reverence of Guru Granth Sahib on the one hand and other sacred books on the other hand is based on different conceptual faith, belief and application [15].”*

As noted above the Sikh Gurdwara Act 1925 [17] had laid down strict test for an institution to qualify as Sikh Gurdwara. The courts have insisted on the dual test of establishment of the Gurdwaras as well as its user as per provisions of the 1925 Act. However, Courts have correctly appreciated the Sikh principles and highlighted the role and significance of Sikh institutions like the Aad Guru Granth Sahib and Gurdwara while interpreting and applying the statutory provisions.

While one feels concerned about the likely lack of respect for the Aad Guru Granth Sahib by non-Sikhs at their institutions it is pertinent to probe whether the Sikhs really revere the Aad Guru Granth Sahib as their living Guru in their Gurdwaras. Do the Sikhs feel the precincts of Gurdwaras sanctified with the presence of their living Guru? Do they submit themselves fully to

their eternal Guru? It is disgusting to note that the Sikhs are failing to give due regard to their Guru. Frequent battles, brawls and hot discussions mar the holy atmosphere of the Gurdwaras. Dirty politics played to control these holy shrines and their resources is a matter of disgrace for the Sikhs. The community should view corruption in the management and misuse of the funds seriously. The Sikhs should feel the holy and abiding presence of the Aad Guru Granth Sahib in the Gurdwara premises. They should behave in a courteous, humble and noble manner visualizing the presence of the Guru amongst them. Only that would mean paying the due respect to their Guru. They should curb their unholy desires and wishes to control the Gurdwaras and utilize their resources to promote the selfish interests. The Gurdwara property and income should be properly utilized for propagation of Sikhism.

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“Guru Granth Sahib cannot be equated with an ‘idol’ as idol worship is contrary to Sikhism and as a concept or a visionary for obeisance, the two religions are different,” the Bench said. Yet “for its legal recognition as a juristic person, the followers of both the religions have given them respectively the same reverential value, and thus Guru Granth Sahib has all the qualities to be recognised as such.” “The reverence of Guru Granth Sahib on the one hand and other sacred books (like the Bhagavad Gita, the Quran and the Bible) on the other, is based on different conceptual faith, belief and application”, the Bench noted.