

COMMENTARY ON THE SIKH GURDWARA ACT, 1925

By DR. KASHMIR SINGH

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A Review by M.S. Rahi, M.A., LL.M, Ph.D. (Law)*

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It is a privilege to review this book by Dr. Kashmir Singh because he was my teacher during my legal studies in 1975. Those were turbulent years in the history of the Sikh as India reeled under Emergency and suspension of Fundamental Rights. The fear was in the air, and every sensitive citizen felt helpless if not disillusioned. The crises, which were to culminate in 1984, were brewing in those days. It was with such a background that Professor Kashmir Singh took up the subject of Religious Institutions – Sikh Gurdwara, for his Doctorate degree under the supervision of my other teacher – Professor T.S. Mann. Dr. Kashmir Singh's book based on his Doctoral dissertation was Law of Religious Institutions – Sikh Gurdwaras, published by Guru Nanak Dev University in 1989, immediately after the degree of Doctorate was awarded to Professor Kashmir Singh. The present book, i.e. 'Commentary on the Sikh Gurdwaras Act 1925' is a variation of the same book, but more exhaustive from the legal and judicial perspective. I have another honour of being Dr. Kashmir Singh's colleague in the Screening Sub Committee constituted by the S.G.P.C., under the Chairmanship of Justice (Retd.) Kulwant Singh Tiwana to screen the earlier draft of the Sikh Gurdwara Bill, 1999, prepared by late Justice Harbans Singh, former Chief Justice of Punjab and Haryana High Court. In the summer of 2002, he looked into the provisions of the Draft Bill and the objections raised by some Sikh scholars and other knowledgeable people, and prepared the draft of the Sikh Gurdwara Bill, 2002. That draft was submitted to the then President of S.G.P.C. on 16.9.2002. Being a serious scholar of Religious Institutions, Dr. Singh made many suggestions for the improvement of the draft of Gurdwara Bill, 1999. The draft prepared under the able guidance of Justice Tiwana, is an answer to many questions raised in the present commentary on the Sikh Gurdwaras Act, 1925 by Dr. Kashmir Singh. The subjects like reservation on the basis of caste, and Sri Guru Granth Sahib being a 'juristic person,' were thoroughly discussed in many sittings, and were finally dropped and not made part of the draft of All India Sikh Gurdwara Bill, 2002.

From the beginning the author has upheld the proposition that there is a need of an *All India* Sikh Gurdwara Act. After critically analyzing the latest judgments of the Punjab and Haryana High Court and the Supreme Court, he reaches the conclusion (page 260) 'It is submitted that the High Court's opinion is a fatal blow to the status of the SGPC and consolidation of the Gurdwara management. If the Sikhs are interested to retain and further consolidate the position of SGPC, a central legislation in the form of All India Gurdwara Act will be the only solution'. His opinion is lately strengthened on the basis of a five judges full-bench order of the Punjab and Haryana High Court, delivered in 2003. The power has been given to the other State Governments in the region, where the Act of 1925 is applicable to constitute

their own Gurdwara Prabandhak Committees in place of SGPC. The full bench, reversing the earlier full bench decision in Laxman Singh Gill's case [reported in AIR 1970 Punjab and Haryana High Court page 40] held: "The provisions contained in Section 89, vest power and jurisdiction with the appropriate Government, would necessarily include successor states to repeal or amend any law made before the appointed day, once again, at the conclusion referred to above. The finding that the Act cannot be effectively adapted by any successor state with any measure of success without the Central Government joining in the adaptation and, therefore, it continues to apply to the whole of the territory of 'existing State of Punjab' also cannot sustain.... In our view, if the States might adapt, modify or repeal the Act of 1925, the Board which is an inter-state body corporate, shall no more remain an inter-state body corporate and its position shall revert to what it was under the Act of 1925, namely, body corporate".

There is no better option with the Sikhs except the proposed central legislation in the form of All India Sikh Gurdwara Act. The Gurdwara is a unique institution in Sikhism. It has won many admirers all over the world. The success or failure of the functioning of the Gurdwara seriously affects the image of Sikhism all over the world. The anomalous situation is: the working of the Gurdwara as per various enactments like Delhi Sikh Gurdwara Act, 1971 and other enactments enacted by the different states for the management of historical Gurdwara in their jurisdiction. Unfortunately, the definition of a Sikh in the Delhi Act and Sikh Gurdwara Act, 1925, is different. Similarly, *Rehat Maryada* being followed in historical Gurdwaras differently create a wrong image of the Sikhs and Sikhism. It is because of this reason that there has remained a long standing demand for the All India Sikh Gurdwara Act. Since the late Fifties, draft after draft of the Bill of All India Gurdwara Act were prepared. The draft of Bill of 1978, 1979, 1986 and 1999 are some of them. However, unfortunately, the All India Sikh Gurdwara Act is yet to be enacted. How much more time it would take, nothing can be said.

The author recommends the reservation of seats for the scheduled castes as provided in the Constitution of India. This recommendation, to my mind, is contrary to the basic principles of Sikhism and no compromise can be made on that account. The reservations as provided in the Sikh Gurdwara Act, 1925 were made by the Government of India through a notification in 1959. This matter of reservation was never discussed by the SGPC in its General House meeting nor any recommendation was ever made by the SGPC. This is a serious matter going to the roots of Sikhism and needs deep consideration in the light of basic principles of Sikhism.

The creation of a casteless society is the main and major objective of Sikhism, and all the Gurus worked for this. Even during the discussion on the draft of Sikh Gurdwara Bill, 1999, the subject of reservations was discussed at length and the Screening Sub Committee reached the conclusion that the provision regarding reservation should not be included in the All India Sikh Gurdwara Bill, 2002. The provision regarding Guru Granth Sahib, being a 'juristic person' was also deleted by the Screening Sub Committee on the ground that Guru Granth Sahib has a **unique spiritual status** in the history of the world and its name should not be involved in the worldly matters.

The major source of worry is the electoral mechanism for S.G.P.C., as provided in the Sikh Gurdwara Act, 1925. The sorry manner in which elections are contested in the Gurdwaras all over the world have brought bad name to the Sikhs and the Institution of Gurdwara. In the history of Sikhism, there were no elections but selections on the basis of pure merit. Dr. Kashmir Singh, without proposing any alternative method writes: [page 267] – “It is felt that elections have polluted the pious atmosphere and management of Gurdwaras. It is pointed out that election system by itself is not in consonance with the tenets of Sikhism wherein humility, self-sacrifice, service and unanimity hold place of primacy. The Gurdwara elections, being accompanied by factionalism and corruption have become very reprehensible. But in the absence of any feasible and better alternative, we shall have to adhere to the election system as a necessary evil. However, some safeguards should be devised to cleanse the election system”. No doubt, the legal framework has been provided for Sikhs to manage their Gurdwaras; unfortunately the number of cases that have started coming to the courts and Sikh Gurdwara Tribunal, is certainly alarming. There seems to be something seriously wrong with the functioning of Gurdwaras. The nature of cases which are coming to the courts certainly brings bad name to the SGPC and the Gurdwara. This aspect also needs serious consideration of the SGPC and the Sikhs.

The other controversial area of the functioning of this Act is Section 87, which provides for constituting Committees for the Gurdwaras, which are not mentioned in Section 85 of the Act. No specified procedure is mentioned for the Committees, and those are constituted in a most undemocratic manner. It is because of this fact that Committees do not function smoothly. Secondly, the income and expenditure of these Committees is not directly controlled by SGPC in a systematic manner. The income from the property owned by the Gurdwaras is not properly spent on *Dharam Prachar*, rather much of it is wasted on frivolous litigation between the past and present members of the Committees. Unfortunately, there is no provision in this Act for the recovery of the decial amount or to take possession of the land in the cases decided in favour of the SGPC, whereas such provisions for recovery have been provided in Hindu and Christian Acts enacted for the same purpose. The decrees passed in favour of the SGPC remain unexecuted for long periods. The working of the Act from this angle also need serious consideration of SGPC as so much public money is being wasted. A definite mechanism has to be provided in the Act to get possession of the land and other property belonging to the Gurdwaras.

As a result of such lapses, the Sikhs become the focus of adverse comment as the cases are generally reported in the press and on the T.V. The critics get an easy opportunity to ridicule and malign the Sikhs. Therefore, the Sikhs need to take special care of the problems as pointed out by Professor Kashmir Singh, if they wish to be respected in the global context.

CELESTIAL GEMS

By S. Joginder Singh, I.R.S. (Retd.)

Published by Hemkunt Publishers Pvt. Ltd.

Pages: 146 (Donation) Price: Rs. 151/-

A Review by Dr. Komal Avtar Singh*

* Formerly of Indian Foreign Service, now engaged in Gurmat studies.

In this presentation volume S. Joginder Singh makes a comprehensive study of Sri Guru Granth Sahib, the ocean of priceless gems. Knowledge of the Self dispels the darkness and lead us to the Treasurer of Gems, ultimately, a sublime meeting with Akalpurkh. "Know thyself" is the true path to salvation. SGGS is for us a living Guru, is a "World Heritage". Through deep meditation, we could recognize our true-self and discover the truth. The real wisdom lies within the man himself, who is a replica of the Cosmos. The inner sub-consciousness only can lead us to salvation. The writer reminds us that Gurbani is irrefutably the Ideal Guru (Shabd Guru). Who glimmers with millions of glittering gems. We, the mortals, have to cultivate communication with Akalpurkh through Gurbani enshrined in Sri Guru Granth Sahib.

The writer selects a few spiritual topics to help us to achieve transformation and bring complete effacement of the "Self" which has been living in pain and sorrow, surrounded by ego, hatred, anger and slander. Gurbani is not just a bunch of poetry. It indeed treasures the Wisdom of Lord (Page-335-SGGS). True obeisance to the Guru lies in reading, listening, understanding and living upto the Gurus precepts. "Moolmantra", a base is indeed the foundation of Sikhs Scriptures. Guru Nanak surmans that "God is Truth and Truth is God". We all imbibe in us a spark of divinity. Simply, we have to develop desire to the spark into a flame to merge with the Celestial Fount. Ponder and look into the mirror of your oneself.

The first slok of Japuji Sahib refers to four eras, "Aad", "Jugad", "Hai", and "Hosi". Drawing divine inspiration from Sri Guru Nanak Dev's pronouncement of Truth, the author has beautifully touched upon the four segments of the Cosmos: "The Eternal Truth of Gurbani", "Dawn of Life", "Twilight of Life" and "The Journey Beyond". The Scripture is an unfathomable ocean of "Amrit Ras". Five drops of the Nectar will transform our life. God is one and only one. Service of mankind bring fruits and honour. Develop faith in the Supreme One. Humanity is one and God is the Creator. Respect women and consider them as the second wheel of the Chariot of Life.

Early morning hours are indeed ideal for meditation. Meditation on His true name at the morning ambrosial hours and praise His eminence. Pray, pray, pray for His benediction. Singing of the glories of the Supreme One, through "Shabd Kirtan" with devotion is the most effective way to come in Communion with Akalpurkh. Hear with thy ears and sing with thy sweet tongue, the glories of the Lord and contemplate the Celestial One in your heart.

Today, happy marriages is a burning topic. The writer aptly quotes a fundamental truth. To minimize the conflicts and sufferings in the marriage relationship, the couple should cement their relations with faith/trust. Gurbani guides us –

**"Hail them not as 'husband and wife',
who merely dwell together in life.**

**The two whose souls merge in one
Are the truly wedded one".**

The writer revives our memories about "Love". Love springs forth God and leads us to Humanity, Humility, Compassion, Forgiveness and, above all, truth. Love is Divine. Love leads us to His Grace. Find true Love (God) within yourself. When we come in contact with the Love of God within us, that is true beauty and that beauty illumines the World. True love is born from within. Love springs forth God.

After each “Gem” the author implores the reader to look to one’s own self in the light of Gurus precept – “Know Thyself”. It is only then that one proceeds on the path of Spirituality. Faith in Guru’s Word is the “Crux”. It is an attractive book which can help everyone to transform ones self into a noble soul. I would like to recommend that “Celestial Gems” should decorate every home and every school library.

KASHMIR LAI QURBANI (in Punjabi)

By Prof. Himmat Singh

Published by Akali Kaur Singh Trust, Vidyanagar (Opp. PU) Patiala. 147002

Pages: 456 + Appendices Price: Rs. 900/- (for two volumes, coffee table size)

This chronicle of Sikhs and Sikhism in Kashmir embodies a wealth of information, tracing events and personages from 1499 up to 1999. Packed with many details, it highlights the sacrifices which Kashmiri Sikhs made for the country in general and for the J&K state in particular. Of special importance is the listing of scores of eminent Sikhs in Kashmir who laid down their lives at the time of Partition of India which precipitated a brutal invasion of the Valley by tribal hordes, aided and abetted by a fledgling but unfriendly Pakistan. Rare photographs hark back to happier times when sizeable pockets of Sikh population were found in every town: Baramulla, Muzaffarabad, Poonch, Srinagar, Anantnag, etc.

S. S.

BOOKS RECEIVED

The Message of Guru Nanak

Onkar Singh (Pub: Sanburn: 2005)

Pp. 128. Price Rs. 125

This collection of delectable essays on the glorious Guru Nanak and his teachings comes from a jurist-turned-diplomat who writes with a rare élan and deep insight. The volume (brought out by Sanbun Publishers, known for its enterprising spirit) has a chaste, racy style, dealing with aspects of the founding Prophet-Guru’s life and philosophy. Readers of *The Sikh Review* would probably be familiar with some of the author’s writings for he writes regularly for newspapers, and interprets the philosophic core of Sikhism in the context of present day events and idiom, with innate sympathy.

Exploring Guru Granth – A Study

Giani (Capt.) Nasib Singh Dhillon

Guru Granth Explorative Mission

2224, Sector 61. (Phase VII) SAS Nagar 160061

Pp. 176, Price (Not stated)

The ever ebullient and peripatetic Capt. Nasib Singh Dhillon is God’s own soldier, drenched in *Gurbani’s* spirit of humanitarian service. He has produced a student’s handbook of guidance to the understanding of the Gurus’ Message, in simple but lucid terms. Having explained the elementary beliefs, he goads the reader to a self-appraisal through a whole section devoted to questions/answers. An excellent example of the Gurbani axiom: Blessed is he who remembers the Lord even as he exhorts others to do the same.

Naam Nidhan Apar (Punjabi)

Joginder Singh (Kohli)

Pub: Sirjan Dhara, 9516 Joshi Nagar, Ludhiana 141 001

Pp. 112, Price Rs. 50

The retired deputy chief engineer, Sr. Joginder Singh who currently lives in Ludhiana, has made it his mission to disseminate *Gurbani*. In this handy volume he writes fluently on Sri Guru Granth Sahib as the key to self discovery, while dwelling profoundly on the Cosmic Energy and “Naam Marg” – The Pathway of Meditation. He illustrates his viewpoint with apt quotations from the holy text – upholding the title – which translates: ‘God’s Name is Infinitely Precious.’

Tracts – Sri Guru Granth Sahib: Ik Adutya Dharma Granth (Punjabi)

Gurcharan Singh, MA, Ph.D. (Saharanpur)

Dasmesh Prachar Sabha, 224 New Avas Vikas, Delhi Road. Saharanpur,
247001 (UP)

Pp. 74, Price (Free)

Ardas: The Prayer of a Seeker

Sampuran Singh Narang [C4-98/2 Safdarjung Dev Area, New Delhi 110016]

Pages 32

These purely personal examples of Love’s Labour are dedicated to themes encapsulated in their titles. Couched in simple language – Punjabi and English – the booklets are meant for whosoever looks for peace and understanding implicit in the holy text of Sri Guru Granth Sahib.

- S.S.