



Appeal number: CA.2020.0026

FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(CHARITY)

HARMINDER SINGH DHINSAY

Appellant

- and -

THE CHARITY COMMISSION FOR ENGLAND
AND WALES

Respondent

- and -

JAGDISH SINGH DHILLON

Co-
Respondent

BEFORE
DTJ Clare Goodman
Tribunal Member Manu Duggal and Tribunal Member A'Isha Khan

Appearances:
Dr Harjinder Singh Lallie for the Appellant
Mr Rechtman for the Respondent

Determined at a remote hearing via CVP on 19-21 October 2021
with linked appeal CA.2020.0026 Dhillon

DECISION

1. The appeal ref CA.2020.0026 is dismissed.
2. The Tribunal also dismissed the joined appeal brought by Mr Jagdish Singh Dhillon relating to the same charity (Tribunal reference CA.2020.0027).
3. This Decision and Reasons relates to Mr Dhinsay's appeal. The Tribunal has produced a separate Decision and Reasons for Mr Dhillon's appeal.

HEARING

4. A joint hearing was held from 19-21 October 2021 of this appeal and Mr Dhillon's appeal. The proceedings were held by Cloud Video Platform (CVP) over three days. All parties in both appeals joined remotely and were able to see and communicate with each other. The Tribunal was satisfied that it was fair and in the interests of justice to conduct the hearing in this way.
5. The Appellant applied on 13 September 2021 for Dr Harjinder Singh Lallie to be added as a co-appellant so that Dr Lallie could "ask questions and cross examine witnesses attending". Following a formal objection from the Charity Commission ("the Commission") and Directions issued on 18 October 2021, the application was withdrawn at the hearing. Instead the Tribunal gave Dr Lallie permission to act as the Appellant's representative at the hearing pursuant to Rule 11(5) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. Neither the Commission nor Mr Dhillon objected.
6. On 18 October 2021, the Tribunal received an application from Mr Gurmeet Singh Jandu and Mr Jaswant Singh Sehmi to attend the hearing as observers. In considering this application, the Tribunal took into account objections made by the Appellant in private at the start of the hearing and allegations of bullying and harassment made by the Appellant and Mr Dhillon against Mr Jandu and Mr Sehmi. However, the Tribunal also noted that Mr Jandu and Mr Sehmi had been appointed as Trustees to the charity which these appeals concern by the Commission in November 2020. The Tribunal decided, applying Rule 35(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules and the general principle of natural justice that Tribunal hearings are in public, and given their clear interest in the proceedings, that Mr Jandu and Mr Sehmi be permitted to observe.
7. Observers from the Commission also attended the hearing. Observers' cameras were turned off and microphones muted. All participants were reminded that proceedings must not be recorded or broadcast.
8. The Tribunal considered the following combined Bundles for both appeals:
 - 8.1. An agreed Hearing Bundle comprising pages 1 to 4942.
 - 8.2. A witness statement bundle comprising pages 1 to 438.
 - 8.3. An Authorities Bundle comprising pages 1 to 156.

- 8.4. A Supplementary bundle comprising pages 1 to 140.
9. This Decision summarises the large amount of evidence and submissions of the parties. The Tribunal took into account all the evidence and submissions before us, even if not specifically referred to below.

REASONS

Background

10. Attached to this Decision are two Annexes. Annex A lists individuals involved in the events surrounding the joined appeals; Annex B is a brief Chronology.
11. Asthan Babe Ke Trust ("the Charity") was established by a Declaration of Trust dated 22 October 1993 and registered with the Commission on 28 October 1993, charity number 1027792.
12. The Charity's objectives are the advancement of the Sikh Religion, the relief of poverty, the advancement of education and the provision of social, recreational and elderly care facilities. Its activities include the operation of *Gurdwaras* (Sikh places of worship) – one near Leamington Spa and one in Hockley, Birmingham - where religious ceremonies are held, the book of holy scriptures is kept, prayers are recited, concerts held and a free dining kitchen (or *guru ka langer*) operates. The Charity holds an annual festival on land in Snitterfield near Stratford-upon-Avon which attracts thousands of people.
13. The Charity owns a number of properties, including the two Gurdwaras, the land in Snitterfield and land in Germany. When a statutory inquiry was opened into the Charity in May 2018, its latest accounts showed freehold assets amounting to almost £1.8 million. The Appellant estimates that the Charity has assets in excess of £5-6 million and turnover of around £340,000 a year.
14. The 1993 Declaration of Trust provides that the Charity must have at least three and no more than seven Trustees. The power to appoint Trustees vests in the surviving or continuing Trustees. The Trustees may delegate management to a committee of three Trustees.
15. The Charity was established with three trustees: His Holiness Sant Baba Nahar Singh ("His Holiness"); Mr Manjit Singh Bhogal, a solicitor; and Mr Jagdish Singh Dhillon, a dentist.
16. Volunteers and members of the community are actively involved in running the Charity. In particular, an "Executive Committee" was established, members of which included Mr Jandu (the Treasurer) and Mr Sehmi (the General Secretary). The Appellant disputes that this "Executive Committee" was formally appointed or authorised by the Trustees. Moreover, that it does not satisfy the requirement that a Trustee committee must include three Trustees and so he refers to it as the "Self-Appointed Executive Committee".

17. His Holiness died on 26 November 2007. No “successor” to His Holiness was appointed. Mr Jaswinder Singh Dhanjal was appointed as a Trustee in 2008, but removed in 2009.
18. From 2009 onwards, a dispute arose between the two remaining Trustees, Mr Dhillon and Mr Bhogal. Allegations were made by each Trustee against the other. In particular, Mr Dhillon complained that Mr Bhogal was using Charity premises for his legal practice without Mr Dhillon’s approval and without paying rent, and made allegations of harassment and bullying against Mr Bhogal and his associates, including members of the “Executive Committee”. Each Trustee reported the other and their respective associates to the police. Due to the absence of a third Trustee after 2009, the Charity remained inquorate.
19. The Charity continued to operate and carry out its activities during the dispute. However, no formal Trustee meetings were held between 2010 and 2016. No accounts were filed for the years from 2009-2010 to 2013-2014 (four accounting periods) until late 2015 when all were filed retrospectively. These accounts were not approved by Mr Dhillon. There were problems accessing and operating the Charity’s bank account and paying the Charity’s bills. The Charity’s land in Snitterfield and Germany remained registered in the name of His Holiness, resulting in legal proceedings and a loss of rental income.
20. In 2015, Mr Dhillon began to work with the Appellant and Dr Lallie, both of whom had been volunteers and organised activities at the Charity, to investigate Mr Bhogal’s conduct. The Appellant is an IT business change project manager for a global insurance broker, and also a property developer and music teacher. Dr Lallie is an associate professor in cyber security at the University of Warwick and a Sikh minister, who has spoken about Gurdwara governance at academic conferences.
21. Mr Dhillon proposed to Mr Bhogal that the Appellant and Dr Lallie be appointed as Trustees, but Mr Bhogal refused. In 2016, Mr Bhogal banned the Appellant and Dr Lallie from Charity premises.
22. Multiple compliance cases were opened by the Commission in relation to the Charity. On 20 October 2017, the Commission issued an Action Plan under section 15(2) of the Charities Act 2011 (“the Act”). On 11 May 2018, the Commission opened a statutory inquiry under section 46 of the Act. On 22 January 2019, the Commission made an Order under s.84, directing the Trustees to deposit all cash and cheques into the Charity’s bank account. Initially, the Trustees complied, but their relationship broke down again soon after.
23. In June or July 2019, representatives from the Commission, including Miss Joyce, an investigator in the Commission’s Investigations and Inquiries team, met members of the “Executive Committee”, including Mr Jandu and Mr Sehmi (the date of this meeting has been reported as both 13 June 2019 and 4 July 2019). According to the transcript of a recording of the meeting (page 76 of the Witness Bundle):

23.1. Miss Joyce noted that Naginder Singh and Jaswinder Singh were brothers;

- 23.2. Miss Joyce enquired whether members of the Executive Committee would be prepared to be appointed as Trustees;
- 23.3. Mr Jandu confirmed that he was using his personal bank account for Charity funds and to pay the Charity's bills. Miss Joyce responded "*you can't use a personal bank account for the charity's money. You just can't do it*" (page 112, line 3) and "*that really can't carry on. You can't keep on paying the Charitys (sic) bills*" (page 113, line 4); and
- 23.4. there was reference to £27,000 being "kept aside" for building works (page 124, line 9).
24. After the meeting, the Commission asked the "Executive Committee" to name five of its members who were willing to be appointed as Trustees. In August 2019, the Commission intervened under s.85 of the Act to authorise Mr Sehmi to use charitable funds in his possession to pay the Charity's bills.

Section 79(4) and 80(2) Orders

25. On 18 June 2020, the Commission gave Mr Dhillon and Mr Bhogal notice that it proposed to exercise its powers under the Act to remove them both as Trustees of the Charity. It also gave notice of its intention to appoint five members of the "Executive Committee" as Trustees in their place: Mr Jandu, Mr Sehmi, Jaswinder Singh Dhanjal, Naginder Singh Dhanjal and Swaran Singh Sehmi.
26. The Commission received a large number of representations in relation to the proposed new Trustees and a report from Dr Lallie about bullying and harassment by Mr Bhogal and the "Executive Committee". A Decision Review was opened. The reviewer noted that:

"Almost all of the representations oppose the appointment of Jaswinder Singh and Naginder Singh due to the fact that they are brothers and the inherent conflict of interest that this gives rise to. A significant majority are also opposing the appointment of Swaran Singh Sehmi who was removed from the Charity in 2001 for building matters and immigration issues, and only came back in 2009. Whilst Gurmeet Singh Jandu and Jaswant Singh Sehmi have received some votes of no confidence, they have significantly less complaints made about them compared to the other nominations and there are virtually no direct complaints made against Jaswant Singh Sehmi. Neither Gurmeet Singh Jandu nor Jaswant Sehmi have been accused of bullying/harassment.

"The most prevalent concern is that all nominees are members of one caste and that the Commission should not appoint members from one family." [page 2736 of the Hearing Bundle]

27. On 17 November 2020, the Commission made the following final Orders:

- 27.1. Orders under s.79(4) of the Act removing Mr Dhillon and Mr Bhogal from their offices as Trustees of the Charity and charity trustees;
 - 27.2. an Order under s.80(2)(a) appointing Mr Sehmi and Mr Jandu as Trustees of the Charity in place of Mr Dhillon and Mr Bhogal ("the s.80(2) Order") and giving them authority to operate the Charity's bank accounts; and
 - 27.3. an Order under s.105 authorising Mr Sehmi and Mr Jandu to make decisions necessary for the management and administration of the Charity while inquorate and as a priority, to work with an independent Sikh charity, Gurdwara Aid, to appoint additional trustees to form a quorate Trustee Board within 4 months.
28. In its Statement of Reasons dated 17 November 2020, the Commission gave the following reasons for appointing Mr Sehmi and Mr Jandu:
- 28.1. with the removal of Mr Dhillon and Mr Bhogal, the Charity was left without any Trustees;
 - 28.2. Mr Sehmi and Mr Jandu had been part of an "Executive Committee" at the Charity since at least 2012;
 - 28.3. the Executive Committee had cooperated with the Commission throughout the Inquiry, sought its advice and taken steps to ensure that the Charity continued to operate despite the dispute between the Trustees, in particular in obtaining the Commission's authority to pay certain bills under section 85 of the Act;
 - 28.4. since June 2019, Mr Sehmi and Mr Jandu had provided the Commission with weekly financial updates, copies of receipts and banking slips and details of payments; and
 - 28.5. Mr Sehmi and Mr Jandu would be required to work with Gurdwara Aid, an independent charity with an understanding of issues affecting the Sikh community, to appoint additional Trustees.

Events since the Orders

29. On 28 December 2020, the Appellant appealed the s.80(2) Order "on behalf of the beneficiaries of the Charity". Mr Dhillon also appealed the s.79(4) Order removing him (Tribunal ref. CA.2020.0027). The Tribunal's decision on Mr Dhillon's linked appeal is set out, as stated above, in a separate Decision.
30. Meanwhile Mr Sehmi and Mr Jandu undertook with Gurdwara Aid a formal process to appoint new Trustees. A detailed role description was prepared, the role was advertised, an independent selection panel was formed and applicants were required to provide CVs and a skills matrix. In February 2021, three new Trustees were appointed as a result of this process: the Appellant, Surinder Kaur Sahota and Tarjinder Singh Ghatoura. A first Board meeting was held on 20 February 2021.

31. However, a dispute then arose between the new Trustees. The Appellant and Mrs Sahota assert that Mr Sehmi and Mr Jandu resigned during a meeting in March 2021 and that Dr Lallie has now been appointed as a Trustee. Mr Sehmi and Mr Jandu dispute this. Mr Ghatoura has proposed a vote of no confidence in the Appellant and Mrs Sahota. Both sides have made Serious Incident Reports to the Commission and the Commission has now removed all Trustee names from its website. The Tribunal makes no findings in relation to this as it is not the subject matter of these appeals.

Appeal to Tribunal

32. The Appellant brought his appeal "on behalf of the beneficiaries of the Charity". The Commission did not dispute the Appellant's right to appeal in this capacity. The Tribunal noted that from February 2020, the Appellant was also entitled to bring an appeal under Schedule 6 of the Act against the s.80(2) Order in his capacity as a Trustee of the Charity.
33. On 4 January 2021, the Tribunal ordered that this appeal be heard together with Mr Dhillon's appeal and joined each of the appellants as a second respondent to the other appeal.
34. In his Grounds of Appeal dated 28 December 2020, the Appellant's main ground of appeal was that Mr Sehmi and Mr Jandu were unsuitable for appointment as Trustees because they had been involved in financial mismanagement, bullying and harassment.
35. In its Response to the appeal, the Commission repeated its reasons for appointing Mr Sehmi and Mr Jandu. It said that the priority was to appoint sufficient Trustees for the Charity to be able to move forward. The Trustees could then investigate allegations of past misconduct. If Mr Sehmi and Mr Jandu refused to cooperate with an investigation, the new Trustees could take appropriate action and/or the Commission could make further directions using its powers under the Act. The Commission emphasised that Mr Jandu and Mr Sehmi had been given authority to act while the Charity was inquorate only on the proviso that they worked with Gurdwara Aid to appoint other independent Trustees.

The Law

36. The Tribunal took into account the authorities to which it was referred. Mr Rechtman noted that to his knowledge, the only previous appeal against a section 80(2) Order was that decided in October 2021 in *Bashir v Charity Commission & Mahmood* (CA/2020/0015).

Nature of the Appeal

37. The nature of an appeal to the First-tier Tribunal under the Act was explained in *Hipkiss v the Charity Commission* (CA/2017/0014) as follows:

"20. The nature of the Tribunal's jurisdiction in this matter is de novo, i.e. we stand in the shoes of the Charity Commission and take a fresh decision on the evidence before us, giving appropriate weight to the Commission's decision as the body

tasked by Parliament with making such decisions. The nature of an appeal by rehearing is described in E.I. Dupont de Nemours & Co v S.T. Dupont [2003] EWCA Civ 1368 by May LJ at [96] 11.

"21. In taking a fresh decision, the Tribunal is not required to undertake a reasonableness review of the Charity Commission's decision-making. Any public law criticisms of the Commission's conduct or conclusions is thus avoided by the Tribunal taking a fresh decision. The Tribunal also has no supervisory jurisdiction – see HMRC v Abdul Noor [2013] UKUT 071 (TCC)12.

"22. Pursuant to s. 319 (4) (b) of the Act and rule 15 (2) (a) (ii) of the Tribunal's Rules, the Tribunal may when hearing an appeal admit evidence whether or not it was available to the previous decision maker. The burden of proof in a de novo appeal rests with the Appellant as the party seeking to disturb the status quo. The standard of proof to be applied by the Tribunal in making findings of fact is the balance of probabilities."

(A) *Law Relevant to the s.80(2) Order*

38. Section 80(2)(a) of the Charities Act 2011 provides as follows:

"The Commission may by order made of its own motion appoint a person to be a charity trustee— (a) in place of a charity trustee removed by the Commission under section 79...

39. The power in s.80(2)(a) is discretionary and should be made only if appropriate and proportionate in all the circumstances of the case.

(B) *The Tribunal's powers on appeal*

40. The Tribunal's powers on appeal are found in s. 319(5) and Schedule 6 to the Act. They provide (as relevant):

s.319 (5) The Tribunal may-

(a) dismiss the appeal, or

(b) if it allows the appeal, exercise any power specified in the corresponding entry in column 3 of Schedule 6.

Schedule 6, Column 3:

Power to -

(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission;

(b) substitute for all or part of the order any other order which could have been made by the Commission;

- (c) *add to the order anything which could have been contained in an order made by the Commission.*

Evidence

41. Witness statements and oral evidence were provided by the Appellant, Dr Lallie and Mrs Sahota. As Mrs Sahota was unable to attend the hearing, the Tribunal took into account in deciding what weight to place on her evidence that the Commission had not had the opportunity to cross-examine Mrs Sahota.
42. Miss Joyce gave evidence for the Commission. The Commission did not provide witness statements from Mr Bhogal, Mr Jandu nor Mr Sehmi, nor call them to give oral evidence.

The Appellant

43. In his witness statement and oral evidence, the Appellant alleged that Mr Jandu and Mr Sehmi had for many years worked "hand in glove" with Mr Bhogal and other members of the "Executive Committee" with whom they had close business and personal connections. In their roles as "Treasurer" and "General Secretary", they were complicit in Mr Bhogal's unauthorised use of Charity premises and in financial mismanagement at the Charity. The Appellant alleged that Mr Jandu and Mr Sehmi had been involved in bullying and harassment of volunteers and worshippers, and that they held Charity funds in cash, even while cooperating with the s.85 Order and after being appointed as Trustees.
44. The Appellant said that at the first meeting of the new Trustees on 20 February 2021, Mr Jandu had admitted that the Charity had employed two illegal immigrants as priests for many years, one of whom was related to Mr Jandu. He said that the priests had been paid in cash from donation boxes, the payments were not declared in the Charity's accounts and the priests were not registered for tax or National Insurance. The Appellant said that Mr Sehmi had disclosed that the Charity had an unauthorised connection to the water mains at one Gurdwara and no licences to serve food. The Appellant said that Mr Jandu and Mr Sehmi had tried to pressurise the Appellant and Mrs Sahota to omit this information from the minutes of the meeting.
45. The Appellant alleged that after the disputed resignation of Mr Jandu and Mr Sehmi in March 2021, they had "stormed into" the Gurdwaras with a group of associates and changed the locks, while verbally abusing and physically assaulting worshippers. The holy scriptures (*Sri Guru Granth Sahib Ji*) had been found at the Gurdwara in a state of disrepair and neglect.
46. The Appellant expressed his frustration at the Commission's failure to investigate alleged wrongdoing by Mr Bhogal and the Executive Committee. By giving Mr Jandu and Mr Sehmi authority to pay bills with cash in August 2019, the Appellant submitted that the Commission had legitimised their bad practices.
47. In cross-examination, the Appellant strongly denied (as did Dr Lallie) allegations that they had attempted to steal money bags at a Charity event and caused traffic disruption at an event. The Appellant said that he had helped coordinate responses to the

proposed s.80(2) Order and established a web form for this purpose, with the Commission's consent, but denied that he had submitted or drafted representations for others. He said that when appointed as a Trustee, he had hoped to work with Mr Jandu and Mr Sehmi, but that he had no choice in the circumstances but to report illegal activities to the relevant authorities and to invite Mr Jandu and Mr Sehmi to resign.

Dr Lallie

48. In his written and oral evidence, Dr Lallie repeated the allegations made by the Appellant against Mr Jandu and Mr Sehmi. He provided an opinion from a chartered certified accountant about inconsistencies in the Charity's accounting records and examples of receipts which he alleged had been altered retrospectively by Mr Jandu or Mr Sehmi.

Mrs Sahota

49. In her witness statement, Mrs Sahota explained how she had come to be appointed as a Trustee in February 2021. She emphasised the importance of female representation on the Board and described messages from Mr Jandu asking her to change Board minutes.

Miss Joyce

50. In her witness statement and oral evidence, Miss Joyce said that the Commission had expended significant resources on the Charity and denied that it had failed to conduct a full, thorough and open inquiry. She said that the Commission regulated over 170,000 charities with only 350 staff and that the level of staff time and resources dedicated to the Charity was excessive and unsustainable. She accepted that there was financial mismanagement at the Charity and that "a cash culture was prevalent" which the Commission did not condone. She acknowledged that in appointing Mr Sehmi and Mr Jandu, the Commission had not followed its own guidance on Trustee appointment. However, Miss Joyce asserted that the process was open and transparent because the Commission's proposals had been published and revised in light of representations received. The Commission had made clear to Mr Jandu and Mr Sehmi that working with Gurdwara Aid to appoint further independent Trustees was "non-negotiable" (see page 2004 of the Hearing Bundle).

Submissions

51. The submissions of the parties are summarised below. The Tribunal took into account all the submissions, even if not specifically referred to below.

The Charity Commission:

52. Mr Rechtman repeated the Commission's justification for appointing Mr Jandu and Mr Sehmi as Trustees as set out in the Response. The Commission had taken on board concerns raised about the proposed Trustees, but decided that to not appoint any of the nominees would cause further delay. The Commission had considered appointing

an interim manager under section 76(3)(g) of the Act, but was not confident that the Charity had sufficient funds to pay the relevant fees.

53. Mr Rechtman submitted that the appeal was “academic” if Mr Jandu and Mr Sehmi had in fact resigned from the Charity, as claimed by the Appellant. If the appeal succeeded and the s.80(2) Order was quashed, the Charity would be left without any Trustees and the Commission might have no option but to wind it up. He asked the Tribunal to refuse the appeal so that the new Trustees could continue to work to resolve their differences and take the Charity forwards. Whatever the result, the Commission would remain involved in light of the continuing dispute between the new Trustees.

The Appellant

54. On behalf of the Appellant, Dr Lallie submitted that Mr Jandu and Mr Sehmi were unsuitable to be appointed as Trustees of the Charity. The Commission had “turned a blind eye” to serious financial impropriety admitted by Mr Jandu and Mr Sehmi at the meeting in June/July 2019, failed to follow its own guidance in appointing them and failed to use its powers to protect the Charity from harm. It had ignored multiple “red flags” raised at the June/July 2019 meeting and rewarded Mr Jandu and Mr Sehmi’s mismanagement by making them Trustees. Dr Lallie submitted that allegations of bullying and harassment had been made against all the nominees, including Mr Jandu and Mr Sehmi.
55. Dr Lallie submitted that the best outcome would be for both appeals to succeed, leaving Mr Dhillon as the only Trustee and able to appoint new Trustees. If Mr Dhillon’s appeal failed, the Tribunal should quash the s.80(2) Order appointing Mr Jandu and Mr Sehmi, but confirm the appointments of the Appellant, Mrs Sahota and Dr Lallie and instruct the Commission to propose a new Action Plan to take the Charity forwards.
56. When asked by the Tribunal if there were any issues specific to the Sikh religion which had not been raised formally but which he felt should be taken into account in considering this appeal, Dr Lallie emphasised the gravity of the lack of respect shown to the holy scriptures. He said that the Charity should not be wound up because it had succeeded, despite all the issues, in promoting the Sikh religion in line with its charitable objects.

Consideration

57. In reaching a decision on the appeal, the Tribunal applied the law as set out at paragraphs 36 to 40 above.
58. The Tribunal refused Mr Dhillon’s appeal against his removal as a Trustee for the reasons set out in the separate Decision Notice for that appeal. As a result, the condition for the Commission to exercise its power under section 80(2)(a) was satisfied. The Commission had the power to appoint Mr Jandu and Mr Sehmi as Trustees in place of Mr Dhillon and Mr Bhogal.
59. The Tribunal had considerable concerns about the process adopted by the Commission in appointing Mr Jandu and Mr Sehmi. The Tribunal found it unacceptable that the

Commission carried out only basic criminal records checks on the nominated individuals and obtained only brief summaries of their roles at the Charity. The Tribunal did not accept that the Commission's lack of resources was a sufficient excuse or justification for ignoring the "red flags" around the conduct of Mr Jandu and Mr Sehmi, in particular the "cash culture" which Miss Joyce accepted existed at the Charity. By appointing Mr Jandu and Mr Sehmi, the Commission had effectively endorsed their irregular practices. The justification set out in the Decision Review (paragraph 26 above) suggested that the Commission went for the "least worst" option by appointing the individuals with the least complaints made against them because it had limited alternative courses of action, rather than accepting that its entire process was flawed. The Tribunal wishes to express its concern that the Commission sees fit to compromise its regulatory duty in the name of expediency, even if it has limited resources at its disposal.

60. However, as set out a paragraph 37 above, the Tribunal is not undertaking a review of the Commission's decision-making. The question for the Tribunal is whether, standing in the shoes of the Commission and taking a fresh decision on the evidence before us, it was appropriate and proportionate to make the s.80(2) Order and appoint Mr Jandu and Mr Sehmi as Trustees. The burden of proof rests with the Appellant as the party seeking to disturb the status quo.
61. In considering whether it was appropriate and proportionate to make the s.80(2) Order, the Tribunal took into account the fresh evidence provided by the Appellant about the alleged employment of illegal immigrants, unauthorised water connections and lack of food licences. The Tribunal did not hear evidence from Mr Bhogal, Mr Sehmi or Mr Jandu in relation to these allegations and makes no specific findings of fact about them. We noted, however, that it had been open to the Commission to call these individuals to give evidence and it had chosen not to do so. The Appellant's evidence was supported by Mrs Sahota and he had produced an official transcript of a recording of the March Board meeting.
62. For these reasons, the Tribunal had significant concerns about the appointment of Mr Jandu and Mr Sehmi as Trustees. We considered whether, standing in the shoes of the Commission and in light of the evidence before us, we would to exercise our discretion to quash the s.80(2) Order and remit the matter to the Commission with directions for an interim manager to be appointed. The Tribunal noted the Appellant's assessment of the Charity's resources and its ability to pay the relevant fees.
63. However, the Tribunal decided on balance, in view of the options open to it and taking into account the best interests of the Charity, that it should not exercise its power to quash the s.80(2) Order and/or substitute for it any other Order for the following reasons:
 - 63.1. The Commission had given Mr Jandu and Mr Sehmi only very limited powers to operate the Charity. The Charity was inquorate and the new Trustees were able to make decisions only under the strict terms of the section 105 Order.
 - 63.2. The Commission had provided in the s.105 Order, and insisted in later communication with Mr Jandu and Mr Sehmi, that they work with Gurdwara Aid

to appoint additional Trustees within four months through a robust and formal process. This process resulted in the appointment of a more diverse Board with new Trustees, who were not affiliated to Mr Bhogal and had not been members of the "Executive Committee", and who had relevant skills and experience. In line with that, the Tribunal found the Appellant to be an intelligent and articulate man possessing the professional skills and experience to be a valuable Trustee capable of navigating the challenges facing the Charity and taking it forward.

- 63.3. The s.80(2) Order, combined with the s.105 Order, had resulted, through the appointment of new Trustees, in steps being taken to regularise the Charity's policies and practices, the uncovering of alleged illegal activity and reporting of such activity to the authorities. Within weeks of identifying the issue with the priests who allegedly did not have the status to remain in the UK, for example, the new Trustees had appointed new priests with formal contracts of employment and DBS checks. Also, the holy scriptures had been inspected and sent for cleaning and repair.
- 63.4. The quashing of the s.80(2) Order would be a backwards step, leaving the Charity without any Trustees. If Mr Jandu and Mr Sehmi's appointments were quashed, the appointment of the Appellant, Mrs Sahota and Mr Ghatoura by Mr Jandu and Mr Sehmi would also be void. While issues remain and the Board is again potentially in dispute, the Tribunal found that the Charity was in a better position with the current Trustees in place, than with none. The processes exist for the new dispute to be resolved through mediation, regulatory action by the Commission and/or Court proceedings. The Appellant has already instructed well regarded Charity lawyers to advise.
- 63.5. Even Dr Lallie reacted to the s.80(2) Order in an email to the Commission on 17 November 2020 with the words: "*Many thanks for this. It is a superb outcome and we look forward to the issue being resolved satisfactorily.*" In oral evidence, Dr Lallie accepted that, although Mr Dhillon was his friend, it might be best for the Charity to move forward with new Trustees.
- 63.6. It was not appropriate, in the circumstances, for the Tribunal to exercise its power to substitute for the Commission's s.80(2) Order appointing Mr Jandu and Mr Sehmi a new s.80(2) Order appointing the Appellant, Mrs Sahota and Dr Lallie as Trustees, as proposed by Dr Lallie. This would involve the Tribunal in the recent dispute between the new Trustees and Mr Jandu and Mr Sehmi, issues which were not before us and on which we make no findings, as noted in paragraph 61 above.
- 63.7. The Tribunal also concluded that the appointment of an interim manager at this stage would not be in the best interest of the Charity. The main task of an interim manager would be to appoint new Trustees through a robust and independent process of the kind already undertaken at the Charity. While this might alter the composition of the Board, it would come at considerable cost to the Charity and still leave a significant risk of not improving the quality of governance.

Conclusion

64. For these reasons, the Tribunal decided not to exercise its power to quash the s.80(2) Order and/or make other Orders in relation to the future governance of the Charity. The current Trustees, including the Appellant, are in the best position to make decisions about the future governance and operation of the Charity, acting in the best interests of the Charity and drawing on the guidance, if needed, of the Charity Commission.
65. Accordingly, the Appellant's appeal is dismissed.

(Signed digitally)

JUDGE CL GOODMAN

DATE: 23 November 2021

ANNEX A: INDIVIDUALS involved in Asthan Babe Ke Trust

Original Trustees	
His Holiness Sant Baba Nahar Singh	Founder and one of first Trustees of the Charity. Died 26/11/2007.
Jagdish Singh Dhillon	Appellant in CA.2020.0027. One of first Trustees. Removed by s.79(4) Order on 17/11/2020.
Manjit Singh Bhogal	One of first Trustees. Removed by s.79(4) Order on 17/11/2020.
Former members of "Executive Committee" appointed as Trustees by Commission under s.80(2) Order on 17/11/2020	
Gurmeet Singh Jandu	"Treasurer"
Jaswant Singh Sehmi	"General Secretary"
Former members of "Executive Committee" proposed as Trustees by Commission in 06/2020, not appointed	
Jaswinder Singh Dhanjal	Appointed as Trustee in 2009, removed 2010. Brother of Naginder Singh Dhanjal
Naginder Singh Dhanjal	Brother of Jaswinder Singh Dhanjal Proposed as Trustee by Mr Bhogal in 2016
Swaran Singh Sehmi	Former building supervisor. Former Trustee, removed in 2001. Proposed as Trustee by Mr Bhogal in 2016.
New Trustees appointed by Mr Jandu and Mr Sehmi with support of Gurdwara Aid in 02/21	
Harminder Singh Dhinsay	Appellant in CA.2020.0026 Proposed as Trustee by Mr Dhillon in 2016.
Mrs Surinder Kaur Sahota	
Tarjinder Singh Ghatoura	
Others	
Dr Harjinder Singh Lallie	Proposed as Trustee by Mr Dhillon in 2016. Mr Dhinsay and Mrs Sahota assert that Dr Lallie was appointed as a Trustee on 07/04/2021. Disputed by Mr Jandu and Mr Sehmi. Represented Mr Dhinsay at Tribunal hearing.
Mrs Balbir Kaur Dhillon	Mother of Mr Dhillon, held honorary position as "President" of Charity until 2011

ANNEX B: BRIEF CHRONOLOGY

22/10/1993	Establishment of Charity. Appointment of 3 Trustees.
26/11/2007	Death of His Holiness
17/07/2017	Commission meets the two Trustees, Mr Dhillon and Mr Bhogal
20/10/2017	Action Plan issued
11/05/2018	Statutory inquiry opened
22/01/2019	S.84 Order issued
13/06/2019	Commission meets members of the "Executive Committee"
08/2019	S.85 Order issued, authorising members of "Executive Committee" to pay bills
10/19	Commission asks "Executive Committee" to nominate five members to be appointed as Trustees
18/06/2020	Commission serve notice of intention to remove on Mr Dhillon and Mr Bhogal and to appoint five new Trustees
17/11/2020	S.79(4) Orders removing Mr Dhillon and Mr Bhogal S.80(2) Orders appointing Mr Jandu and Mr Sehmi s.105 Orders authorising Mr Jandu and Mr Sehmi to operate the Charity and to work with Gurdwara Aid to appoint new Trustees
10/02/2021	Mr Dhinsay, Mrs Sahota and Mr Ghatoura appointed as Trustees by Mr Jandu and Mr Sehmi
17/02/2021	Commission conclude statutory inquiry and issue report
20/02/2021	First meeting of new Trustees
07/03/2021	Trustee meeting – disputed resignation of Mr Jandu and Mr Sehmi