



Appeal number: CA.2020.0027

FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(CHARITY)

JAGDISH SINGH DHILLON  
(appealing as a former Trustee)

Appellant

- and -

THE CHARITY COMMISSION FOR ENGLAND  
AND WALES

Respondent

- and -

HARMINDER SINGH DHINSAY

Co-  
Respondent

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

Appearances:  
Mr Mitchell instructed by MFG Solicitors 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 Dhinsay

DECISION

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

#### HEARING

4. A joint hearing was held from 19-21 October 2021 of this appeal and Mr Dhinsay's appeal. The proceedings were held by Cloud Video Platform (CVP) over three days. All parties joined remotely and were able to see and communicate with each other. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way. Mr Dhinsay was also present for the hearing of this appeal with his witness and representative, Dr Harjinder Singh Lallie.
5. 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 Mr Dhinsay in private at the start of the hearing and allegations of bullying and harassment made by the Appellant and Mr Dhinsay 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.
6. 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.
7. The Tribunal considered the following Bundles for the joined appeals:
  - 7.1. An agreed Hearing Bundle comprising pages 1 to 4942.
  - 7.2. A witness statement bundle comprising pages 1 to 438.
  - 7.3. An Authorities Bundle comprising pages 1 to 156.
  - 7.4. A Supplementary bundle comprising pages 1 to 140.
8. 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

9. 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.
10. 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.
11. 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 are 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.
12. 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.
13. The 1993 Declaration of Trust includes the following provisions:
  - Clause 7 provides that the Charity must have at least three and no more than seven Trustees, including "so far as possible" His Holiness Sant Baba Nahar Singh or "his successor as appointed".
  - Clause 8 provides that the power to appoint new Trustees vests in the surviving or continuing Trustees and that if there are less than three Trustees, one or more Trustees "*shall forthwith be appointed so as to bring the number of Trustees up to three at least*".
  - Clause 12(a) provides that the Trustees must hold meetings at least twice a year at such times and places as they decide from time to time. Any Trustee may call a special meeting at any time on 5 days' notice.
  - Clause 12(b) provides that there is a quorum when three Trustees are present at any meeting.
  - Clause 12(f) provides that the Trustees may delegate management to a committee of three Trustees.
14. The Charity was established with three trustees: His Holiness Sant Baba Nahar Singh ("His Holiness"); Mr Manjit Singh Bhogal, a solicitor; and the Appellant, who is a dentist by profession. The Appellant's father, and later his mother, held, at different times, the honorary role of "President" of the Charity but were not Trustees.
15. 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 in Clause 12(f) of the Deed of Trust for a Trustee committee to include three Trustees and so he refers to it as the "Self-Appointed Executive Committee". However, the Appellant did recognise its existence in letters to the Commission in 2007 and 2008.

16. His Holiness died on 26 November 2007. No "successor" to His Holiness was appointed. Mr Jaswinder Singh Dhanjal was appointed as Trustee in 2008, but then removed in 2009. The Appellant's mother was proposed as an interim Trustee but never appointed.
17. From 2009 onwards, a dispute arose between the two remaining Trustees, the Appellant and Mr Bhogal. Allegations were made by each Trustee against the other. In particular, the Appellant complained that Mr Bhogal was using Charity premises for his legal practice without the Appellant'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 on several occasions. The Appellant enlisted the help of Mr Dhinsay and Dr Lallie in 2015 to investigate Mr Bhogal's conduct. Mr Dhinsay and Dr Lallie were then banned from Charity premises by Mr Bhogal.
18. Due to the absence of a third trustee after 2009, the Charity remained inquorate. Mr Bhogal notified the Commission that new Trustees had been appointed in 2010 and again in 2016 and 2017, but these appointments had not been approved by the Appellant. The Appellant proposed that Mr Dhinsay and Dr Lallie be appointed, but Mr Bhogal refused.
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 the Appellant. There were problems accessing and operating the Charity's bank account because the signature of both Trustees was required. Bills were paid in cash and Charity funds held in personal accounts of members of the "Executive Committee". The Charity's land in Snitterfield and Germany remained registered in the name of His Holiness, requiring legal proceedings to regularise the situation and resulting in a loss of rental income. In 2016, the Appellant appointed solicitors to correspond with Mr Bhogal on his behalf.
20. The Appellant raised his many concerns as to the way that the Charity was being run with the Commission on several occasions and in most cases identified specific irregularities. Multiple compliance cases were opened by the Commission and in December 2016, the Charity was removed from the Register for a month because it was inquorate. In April 2017, the Appellant's solicitor enquired about obtaining the Commission's consent under s.115 of the Act for Court proceedings to remove Mr Bhogal.

21. On 17 July 2017, representatives from the Commission met with the Appellant and Mr Bhogal. The Commission issued an Action Plan under section 15(2) of the Charities Act 2011 ("the Act") on 20 October 2017, requiring the Trustees to enter into mediation, to appoint a third Trustee, to improve financial controls and policies, and to establish legal ownership of the German land.
22. Due to a lack of progress with the Action Plan, the Commission opened a statutory inquiry under section 46 of the Act on 11 May 2018. 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 and ensure all outgoing expenditure and bills were paid from that account. Initially, the Trustees complied and established better financial controls, but their relationship broke down again soon after.
23. On 13 June 2019, the Commission met with members of the "Executive Committee" to discuss the issues faced by the Charity and possible ways forward. 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

24. On 18 June 2020, the Commission gave the Appellant and Mr Bhogal notice that it proposed to exercise its powers under the Act to remove them both as Trustees of the Charity. It gave public notice of its intention to appoint five members of the "Executive Committee" as Trustees in their place including Mr Jandu and Mr Sehmi.
25. In its Statement of Reasons, the Commission gave the following reasons for finding that the statutory grounds for removing the Appellant under section 79(4) were met:
  - 25.1. There had been misconduct and/or mismanagement in the administration of the Charity because of the "*continuing dispute between the two charity trustees*" which the Appellant had been responsible for, knew of and failed to take any reasonable step to oppose, or which his conduct had contributed to or facilitated, namely:
    - (i) failure to manage charitable funds responsibly – in particular by failing, due to the dispute with Mr Bhogal, to comply with the section 84 Order in relation to financial procedures;
    - (ii) failure to comply with the section 84 Order by failing to take control of the land in Germany resulting in the loss of rental income by the Charity;
    - (iii) failure to comply with the Charity's Governing Document by failing to appoint a third Trustee and ensuring a quorate Trustee board; and
    - (iv) failure to comply with other legal obligations by failing to update the Land Registry with the correct details for the Snitterfield land.

- 25.2. It was necessary or desirable to act for the protection of the property of the Charity, in particular the German land and the Snitterfield land, to secure a proper application for the purposes for the Charity of that property and any property coming to the Charity.
- 25.3. The removal of the Appellant was proportionate to the level of risk to the Charity, including its reputation. His disqualification from being a trustee of other charities or holding a role with a senior management function would protect the charity sector in general and was proportionate, given his failings as a Trustee at the Charity.
26. After receiving representations and opening a Decision Review case, the Commission made the following final Orders on 17 November 2020:
- 26.1. an Order under s.79(4) of the Act removing the Appellant from his office as Trustee of the Charity and a charity trustee ("the s.79(4) Order");
- 26.2. an Order under s.79(4) removing Mr Bhogal from his office as Trustee of the Charity and a charity trustee;
- 26.3. an Order under s.80(2)(a) appointing Mr Sehmi and Mr Jandu as Trustees of the Charity in place of the Appellant and Mr Bhogal ("the s.80(2) Order"); and
- 26.4. an Order under s.105 authorising Mr Sehmi and Mr Jandu to make decisions necessary for the management and administration of the Charity while in quorate 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.
27. In February 2021, three new Trustees were appointed by Mr Sehmi and Mr Jandu after a process involving Gurdwara Aid: Mr Dhinsay, Surinder Kaur Sahota and Tarjinder Singh Ghatoura. However, a dispute has now arisen between the new Trustees. Mr Dhinsay and Mrs Sahota assert that Mr Sehmi and Mr Jandu resigned as Trustees during a meeting in March 2021 and that Dr Lallie has now been appointed as a Trustee. The Tribunal makes no findings in relation to this as it is not the subject matter of these appeals

### Appeal to Tribunal

28. The Appellant appealed the s.79(4) Order to the Tribunal. Mr Bhogal did not appeal the s.79(4) Order relating to him.
29. Mr Dhinsay also appealed "on behalf of the beneficiaries of the Charity" against the s.80(2) Order (appeal ref. CA.2020.0026). On 4 January 2021, the Tribunal ordered that the appeals be heard together and joined each of the appellants as a second respondent to the other appeal.
30. In his Grounds of Appeal dated 28 December 2020, the Appellant focussed on alleged misconduct by Mr Bhogal, in particular in relation to using Charity premises for his

business, withholding information, failing to safeguard Charity property, unauthorised Trustee appointments, accounting failures and public safety issues. The Appellant said that he had "*tried my best*" to comply with the Action Plan and section 84 Order, but that he was "*prevented from carrying out my duties as trustee by the non-cooperation, intimidation, and obstruction by the self-appointed executive committee ('the SAEC') and my co-trustee*". The Appellant said that he raised concerns with the Commission "*as a whistleblower*" and proposed solutions, but as the Commission failed to respond or advise him, "*there was nothing more that I could have done*".

31. The Commission repeated in its Response the reasons given for the s.79(4) Order in its Statement of Reasons. At paragraph 99, the Commission said:

*"it was the nature of the long-running dispute between [the Appellant] and Mr Bhogal which was a significant factor in the Commission's decision to make orders under s.79(4) in respect of both trustees. The Commission did not and does not need to (and largely cannot) resolve disputes between trustees by allocating blame for the state of affairs to any one or more trustee. The Commission noted that the trustees had failed to resolve their disputes, had failed to engage in mediation as recommended to them, had failed to take steps to appoint a further trustee (or further trustees), and that this had the result of leaving the Charity's funds and assets at significant risk."*

32. The Commission submitted that the s.79(4) Order was proportionate and that it had considered and complied with human rights, its public sector equality duty, the better regulation principles and its economic growth duty. The Commission proposed that in reconsidering the decision to remove the Appellant, the Tribunal consider the progress made by Mr Jandu and Mr Sehmi in appointing new Trustees.
33. In his Reply on behalf of the Appellant, Mr Mitchell submitted that the Commission had made findings only against the Trustees jointly. It had failed to make any specific findings against the Appellant as an individual and had in fact refused (in paragraph 99 of its Response, see paragraph 31 above) to allocate blame to any one Trustee. Mr Mitchell submitted that the Appellant had done all he could to address the issues at the Charity. The Appellant had wanted to mediate, comply with the Action Plan and appoint a third Trustee, but Mr Bhogal refused.

### The Law

34. The Tribunal took into account the authorities to which it was referred.

#### (A) Nature of the Appeal

35. 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].*

*"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).*

*"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."*

(B) *Law Relevant to the s.79(4) Order*

36. Section 79 of the Charities Act 2011 ("the Act") provides (as relevant) as follows:

*(3) Subsection (4) applies where, at any time after it has instituted an inquiry under section 46 with respect to any charity, the Commission is satisfied both as mentioned in section 76(1)(a) (misconduct or mismanagement) and as mentioned in section 76(1) (b) (need to protect property etc ).*

*(4) ... the Commission may of its own motion by order remove any trustee, charity trustee, officer, agent or employee of the charity –*

*(a) who has been responsible for the misconduct or mismanagement,*

*(b) who knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or*

*(c) whose conduct contributed to it or facilitated it.*

37. The matters referred to in Section 76(1)(a) and (b) of the Act are:

*(a) that there is or has been a failure to comply with an order or direction of the Commission, a failure to remedy any breach specified in a warning under section 75A, or any other misconduct or mismanagement in the administration of the charity*

and

*(b) that it is necessary or desirable to act for the purpose of—*

*(i) protecting the property of the charity, or*



*(ii) securing a proper application for the purposes of the charity of that property or of property coming to the charity.*

38. Even if the above criteria are satisfied, it does not follow that a removal order must be made. The power is discretionary and should be made only if that is appropriate and proportionate in all the circumstances of the case.
39. There is no statutory definition of "misconduct" or "mismanagement". As the First-tier Tribunal said in *Mountstar (PCT) Limited v Charity Commission*, "both are ordinary words which should be given their ordinary meaning..." (CA/2013/0001 & 0003, paragraph 136).
40. Section 178 of the Act provides that a person removed as a charity trustee by an Order made under s.79(4) is disqualified from being a charity trustee or trustee for a charity. Section 181 gives the Commission the power to waive the disqualification generally or in relation to a particular charity or class of charities. If an application for waiver is made after 5 years, the Commission must grant a waiver unless satisfied that it should be refused because of special circumstances.

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

41. 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*

42. Witness statements and oral evidence were provided by the Appellant and Miss Joyce, an investigator in the Commission's Investigations and Inquiries team. The Commission did not provide a witness statement from Mr Bhogal nor call him to give evidence.

43. The Appellant's witness statement was over 50 pages with 1,000 pages of attachments. In his statement and oral evidence, the Appellant provided more detail of the issues at the Charity and his attempts to resolve them. The Appellant said that Mr Bhogal had refused to cooperate with his attempts to comply with the Action Plan and s.84 Order, in particular failing to attend meetings to count donations, changing the locks on donation boxes and failing to supply documentation or appoint lawyers in relation to the German land. He alleged that Mr Jandu had employed illegal workers and retrospectively changed the Charity's financial records.
44. In cross examination, the Appellant said that he had not attended Trustee meetings called by Mr Bhogal because, in his view, formalities had not been complied with and because he did not recognise the authority of the "Executive Committee". The Appellant said that although there had been no formal Trustee meetings between 2010 and 2016, there had been informal discussions and attempts by members of the congregation to mediate between the Trustees. The Appellant became upset when he described how his mother had ceased to be involved in the Charity after 2011 as a result, the Appellant said, of bullying and intimidation by Mr Bhogal and the "Executive Committee".
45. In her witness statement and oral evidence, Miss Joyce described the long history of the Commission's involvement in the Charity. 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. Miss Joyce said that the Appellant had justified Mr Bhogal's use of a room at the Charity for his "private work" in letters to the Commission in 2009 and 2010.

### Submissions

#### *The Charity Commission:*

46. Mr Rechtman confirmed that the Commission relied on s.79(4)(c) of the Act only: that the Appellant's conduct had "contributed to or facilitated" misconduct or mismanagement at the Charity. The Commission's position was that it was unfair to rely on s.79(4)(a) or (b) in the absence of Mr Bhogal. The Commission relied upon the Appellant's conduct in failing to attend Trustee meetings called by Mr Bhogal and to appoint a third Trustee, his lack of involvement in the Charity from 2009 to 2017 and his failure to put the interests of the Charity above the dispute, to mediate or comply with the Action Plan.

#### *The Appellant*

47. On behalf of the Appellant, Mr Mitchell did not dispute that there had been substantial mismanagement at the Charity, but repeated that the Commission had failed to make specific findings against the Appellant. He accused the Commission of an "ambush" which was unfair and prejudicial because it relied on new grounds at the hearing. Mr Mitchell asserted that, while the Tribunal is inquisitorial, it would be unfair to refuse the Appellant's appeal on grounds raised by the Commission at the last minute at the hearing.

48. Mr Mitchell submitted that the Appellant had asked the Commission for help to resolve the dispute and that disqualifying him for life was a “draconian” sanction in the circumstances. If the s.79(4) and s.80(2) Orders were quashed by the Tribunal, the Appellant as sole remaining Trustee would be able to appoint new Trustees to take the Charity forwards.

Consideration

49. In reaching a decision on the appeal, the Tribunal applied the law as set out at paragraphs 34 to 41 above. We noted that the Tribunal must stand in the shoes of the Commission and make a fresh decision on the evidence before us as to whether the Appellant should be removed as a Trustee of the Charity pursuant to s.79(4) of the Act. The burden of proof rested with the Appellant as the party seeking to disturb the status quo.

*Section 79(3) Conditions*

50. The Tribunal found that the conditions for making an Order under s.79(3) were met, namely that:
- 50.1. the Commission had instituted an inquiry into the Charity under section 46 of the Act;
  - 50.2. as set out in paragraphs 17 to 23 above, there had been many years of substantial mismanagement at the Charity; and
  - 50.3. it was necessary or desirable for the Commission to act for the purposes of protecting the property of the Charity or securing a proper application of the Charity’s property for the purposes of the Charity – in particular, to regularise the position with the Charity’s land at Snitterfield and in Germany and in relation to the Charity’s bank account.
51. The Appellant did not dispute that these conditions were met nor that there had been years of substantial mismanagement; indeed, he had asked the Commission on many occasions to intervene for this reason.

*Section 79(4)(c) Conduct contributing to/facilitating the mismanagement*

52. The Tribunal considered whether the Appellant had contributed to or facilitated the misconduct or mismanagement at the Charity.
53. The Tribunal did not accept that the Appellant had been “ambushed” by the Commission at the hearing. The Commission first set out its grounds for the s.79(4) Order in its Statement of Reasons in June 2020. Those grounds were repeated to a large extent in its Response and Skeleton Argument. The Commission detailed in its Skeleton Argument evidence supporting its submission that the Appellant repeatedly failed to attend Trustee meetings and engage in mediation.

54. The Commission had not previously relied upon the Appellant's failure to report allegations of fraud against Mr Bhogal to the police. In dismissing the appeal, the Tribunal does not rely on this ground. The Tribunal found that it was not unreasonable in the circumstances that the Appellant did not report his concerns to the police nor that he failed to start Court proceedings to remove Mr Bhogal.
55. The Tribunal accepted that the Appellant had good reason not to attend some of the meetings called by Mr Bhogal. Some were called at short notice and/or without first confirming his availability (what the Appellant describes as "pre-scheduled" meetings). The Tribunal accepted that the Appellant felt intimidated and harassed by Mr Bhogal and members of the "Executive Committee". The Tribunal did not find, as submitted by Mr Rechtman, that the Appellant had refused through his solicitor to ever attend any future meeting called by Mr Bhogal.
56. However, the Tribunal found that the Appellant's conduct did contribute to the mismanagement at the Charity over many years because he did not make sufficient efforts to resolve the longstanding dispute between himself and Mr Bhogal which was at the heart of all the issues. The Appellant failed for over ten years to agree to a procedure for dispute resolution and, as a consequence, to reach agreement with Mr Bhogal about the appointment of a third Trustee. As a result, the Charity was inquorate and unable to function properly. Moreover, annual accounts couldn't be approved and filed, bank accounts couldn't be operated and land couldn't be registered in the name of the Charity. All of these are also matters which the Appellant did not take direct, proactive steps to resolve with Mr Bhogal. The dispute was fundamentally the reason why, as set out in the Commission's Statement of Reasons, the Charity failed to manage its funds responsibly and failed to comply with the section 84 Order and its legal obligations.
57. The Tribunal accepted that the Appellant made some efforts to mediate with Mr Bhogal. However, ultimately, he demonstrated an intransigence, a reluctance to compromise and an inability to put the interests of the Charity above his differences with Mr Bhogal, which contributed to the continuation of the dispute and the mismanagement at the Charity. For example:
  - 57.1. The Appellant refused to take any responsibility for the problems at the Charity and focussed only on what he saw as Mr Bhogal's wrongdoing. There was little sense of "give and take" or attempts from the Appellant to meet Mr Bhogal halfway.
  - 57.2. The Appellant's proposals of mediation in 2016 were accompanied by demands that Mr Bhogal resign. This was not a realistic or reasonable basis on which to approach mediation and it was foreseeable that such demands would result in a breakdown of the dispute resolution process.
  - 57.3. The Appellant objected to Mr Bhogal's nominations for a third Trustee because they were associates of Mr Bhogal, but in return, nominated only individuals (Dr Lallie and Mr Dhinsay) who were his own associates.

- 57.4. Mediation failed in 2017, despite being a condition of the Action Plan and despite agreement on dates, location and the identity of the mediator, because the Appellant refused to pay his share of the costs. The Tribunal noted that the Commission had informed the Charity that it was “acceptable” for mediation costs to be paid by the Charity. However, given the duration of the dispute, the impact on the Charity, and the fact that the Appellant was paying a solicitor to correspond with Mr Bhogal, the Tribunal found that his insistence on having his costs paid by the Charity was a further indication of his reluctance, ultimately, to resolve the dispute.
- 57.5. The Appellant did not do enough, given the gravity of the issues facing the Charity, to ensure that regular Trustee meetings took place as required by the Deed of Trust and good practice in charity governance. Instead, he made excuses to avoid meeting Mr Bhogal, objected to venues on health and safety grounds, to dates if he had not been consulted in advance, and to notices which he felt did not comply with formalities, such as notices signed on behalf of the “Executive Committee” which he did not recognise. As a Trustee, the Appellant had a responsibility, especially in the context of the Commission’s Orders and the consequences for the Charity of non-compliance, to put the interests of the Charity above insistence on the strictest application of such formalities. To avoid this, the Appellant should have agreed to meet Mr Bhogal and genuinely attempted to find a solution to the dispute so that the Charity could move forward.
58. The Tribunal found that the Commission’s statement that it did not “*resolve disputes between trustees by allocating blame*” was not incompatible with a finding that the conduct of the Appellant had contributed to or facilitated the mismanagement at the Charity. The Commission was not willing to identify which Trustee was more at fault, nor to resolve the dispute between the Trustees, but it was satisfied that both Trustees had individually and collectively contributed to it.

#### *Appropriate and Proportionate*

59. The Tribunal considered that it was appropriate and proportionate to exercise its discretion to remove the Appellant, despite the fact that this would also result in his disqualification as a charity trustee. His contribution to the substantial mismanagement at the Charity over many years had put the reputation of the Charity and valuable Charity assets at risk.
60. However, the Tribunal recognised that the Appellant is an intelligent and articulate professional who could make a valuable contribution to the management of a charity, were it not for the dispute with Mr Bhogal. We expect the Commission to regard favourably any application by the Appellant for a waiver under s.181 in relation to another charity unconnected to the Charity and to review his candidacy with an open mind should he be eligible and wish to reapply to be a Trustee of an unconnected charity.

#### Conclusion

61. The Tribunal concluded that on the balance of probabilities, the Appellant's conduct contributed to the mismanagement at the Charity. Standing in the shoes of the Commission and taking a fresh decision on the evidence before us, the Tribunal would make the s.79(4) Order and remove the Appellant as a Trustee.
62. 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