



## The Modern State and the Contestation of Succession in Sacred Spaces: Examining the Local Moral Authority of the Shrine of Bābā Farīd in Pakpattan (Punjab-Pakistan)

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### Abstract

*The Sufi shrines that emerged and developed in the Indian subcontinent during the medieval period had developed their respective patterns of succession to the office of their custodians based on relation to their separate Sufi orders. The office bearers also enjoyed a level of socio-religious, spiritual, and moral authority according to the status of their shrines in the realm. However, after the emergence of the modern state in the Indian subcontinent, the succession issues at the Sufi shrines became part of the judicial system established by the British. Likewise, the succession issues that emerged at the shrine of Bābā Farīd in Pakpattan (Punjab-Pakistan) during the colonial and postcolonial times were also dealt with through the new judicial apparatus. The arising phenomenon significantly impacted how issues were handled, affecting the office bearers' local spiritual and moral standing. This study intends to explore the nature of the recent succession cases and analyze the effects of the encounter of the office of the *sajjāda-nishīn* of the shrine of Bābā Farīd with the modern state had on its socio-religious stature.*

**Key Words:** Bābā Farīd, Chishtī Sufi Shrines, Modern State, Moral Authority, Pakpattan, *sajjāda-nishīn*, Succession Cases

### Background

In popular South Asian Sufism, it is believed that the saints of the past can be reached through intermediaries in the form of their living representatives, the *sajjāda-nishīns* (office custodian from lineal descendants), who are held to possess all the attributes of the moral exemplars that were the past masters. (Ewing, 1983) The *sajjāda-nishīn*, in general, is the head and manager of the shrine and administrator of the charities. He is considered more than a *mutavallī* who oversees only secular affairs of the endowment and is a mere manager or superintendent in temporal matters. The *sajjāda-nishīn* is also believed to be a spiritual preceptor to

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some degree. In the case of the present study, the regional and local socio-religious influence of a renowned 13<sup>th</sup> century Chishtī Sufi saint, Shaiikh Farīd al-Dīn Mas ūd Ganj-i Shakar (d. 1265), popularly known as Bābā Farīd, allowed his *sajjāda-nishīns* to exercise and enjoy the local religious authority as the living representatives and the custodians of his shrine in the later period. The prestige of the saint enabled the later custodians to act as intermediaries between the local populations and the rulers, from the Sultans to the Mughal emperors and the Sikh rājās, and with the saint and Divine. Richard Maxwell Eaton writes, "...both the Diwan [title gradually opted by the custodians of the shrine of Bābā Farīd] and the shrine functioned as intermediaries for an intermediary, as on-going vehicles of the saint's mediative power." ([Eaton, 1982](#))

Anna Barry Bigelow believes that Bābā Farīd's lineal descendants never fully realized Bābā Farīd's spiritual gifts. Bābā Farīd's spiritual deputies, especially the chief spiritual successor, Shaiikh Nizām al-Dīn Auliyā (d. 1325), left Ajūdhan (present-day Pakpattan in Punjab-Pakistan) "obviating the possibility of contestation for authority at the *dargah*". As one family held the custodianship of the shrine, the shrine and its endowments and gifts from local leaders and the central authorities helped entrench the power of Bābā Farīd in the shrine itself. ([Bigelow, 2004](#)) Over time, the role of the *sajjāda-nishīn* as the centre of that power has taken many shapes. Richard Maxwell Eaton's study of Bābā Farīd's shrine in Pakpattan gives a clear idea of this evolution in the pre-colonial period. It clearly describes the process of the concentration of the religious authority of the shrine of Bābā Farīd in the *sajjāda-nishīn*: the saint's *baraka* (blessing conferred by God upon humankind and transmitted through saints) inheres in the latter's blood relations, and the shrine becomes a pilgrimage centre operated by him. ([Eaton, 1984](#))

During the medieval period (Sultanate and Mughal periods, 14<sup>th</sup> - 18<sup>th</sup> centuries), the requirements for becoming a *sajjāda-nishīn* gradually shifted from spiritual merit to political loyalty to the central government. "Over centuries, the shrine of Bābā Farīd got precedence over *jamā* 'at *khāna* [a space for the spiritual disciples of a saint where they are provided with spiritual, religious, and moral education], which became less significant as an institution" (Anjum, 2009) and "the prestige and authority of a *sajjāda nishīn* came to depend on the extent of *langar* [charity food] and the splendour of the 'urs festival." ([Gilmartin, 1988](#)) Regarding the religious status of the *sajjāda-nishīn* of the shrine of Bābā Farīd, Richard Maxwell Eaton remarks: "It is worth noting that because only the Diwan opened the gate [the Bahishtī Darvāza (lit. "Door to Paradise")], it was only through his agency that devotees gained access to Bābā Farīd, and only through the saint's agency that they gained access to Heaven." ([Eaton, 1982](#)) All this favored the penetration of the shrine into the culture of Punjab. This enhancement of the prestige of the shrine of Bābā Farīd as well as of the lineal descendants of the saint led to the development of many 'memorial' or 'daughter' shrines of

Shaikh Farīd in different locales of Punjab and consequently led to the establishment of what Eaton calls a spiritual kingdom of Shaikh Farīd in the region. Resultantly, the following of the shrine boosted in many folds, and its religious and moral authority was established over a large number of clans inhabiting Western Punjab.

Thorough research of the succession matters of the shrine, through centuries of pre-colonial times, of Bābā Farīd has been conducted by this author covering the evolution of the lineal descendants of Bābā Farīd, known as Chishtīs in Pakpattan. The research has been published in the shape of a chapter titled “Evolution of the Chishtī shrine and the Chishtīs in Pakpattan (Pakistan)” in *Devotional Islam in Contemporary South Asia: Shrines, Journeys and Wanderers* (2015) from Routledge (London). The detailed study reveals that the *sajjāda-nishīn* of the shrine of Bābā Farīd was initially a patron saint-scholar, and on certain occasions, a government official, a feudal lord, at times a ruler, an influential elder of the area, an intermediary between the government and the local masses, and later in the nineteenth and twentieth centuries as a dependent, a kingmaker, a politician, and a ceremonial and prestigious figure. ([Muhammad Mubeen, 2015](#))

Regarding the succession matters, “Initially, at least, two conditions were considered a prerequisite to qualify the *sajjāda nishīnī* in Ajūdhan [modern Pakpattan]: first, the *sajjāda nishīn* must possess some degree of godliness and piety; and second, he must be a direct descendant of the deceased Shaikh. Over time, the second precondition emphasizing the lineage of a *sajjāda nishīn* seems to have taken precedence over the first one.” (Anjum, 2009) Therefore, on the authority of hagiographical and contemporary historical sources, this author’s study reveals that in the pre-colonial period, a specific norm developed and established regarding the succession to the custodian’s office, the nomination of an agnate disciple as successor to the office by the preceding custodian of the office. ([Muhammad Mubeen, 2015](#))

The second important aspect was that the office of the *sajjāda-nishīn* had an attraction that it was one of the largest *gaddīs* of India, that it had an enormous influence over the shrine circles of different *gaddīs* in Punjab and other regions, and that it meant having the economic hold of an extensive estate attached to the shrine as *waqf* or inalienable religious endowment. This directly resulted in a sharp rivalry for access to the office of *sajjāda-nishīn* among the members of the custodian family of the shrine of Bābā Farīd at Pakpattan. Thus, getting of *sajjāda-nishīnī* became a bone of contention among the different members of the custodian family of the shrine of Bābā Farīd at Pakpattan. In the pre-colonial period, the Chishtī elders used to solve such intra-family issues. ([Muhammad Mubeen, 2015](#))

With the emergence of the modern state in the region, the local religious authority of the shrine of Bābā Farīd, as implemented through the living representatives of the saint, started decreasing. Several factors, during the colonial

and postcolonial periods, can be considered as having played a role in the deterioration of the shrine custodian's local religious authority: the state, for instance, started encroaching in various ways on what had been the prerogatives of the *sajjāda-nishīn* and his family in the pre-colonial period. Regarding succession issues, in the colonial period, the British colonial administration interfered directly in the internal matters of local shrines like Pakpattan, going as far as to mediate succession disputes in official courts established after the annexation, and the process continues in the current scenario.

### **The Modern State and the Issue of Succession at Sufi Shrines**

To solve the succession issues of various Sufi shrines, the judicial machinery of the colonial state depended upon the Anglo-Muhammadan Law, which was developed and codified by the colonial authorities in the latter decades of the 19<sup>th</sup> century. ([Anderson, 1993](#)) Therefore, it is necessary to have an idea of the development of the judicial system in India, which was the statutory tool of the state to deal with such issues.

During the early decades, the ideal of the British Indian Government to run the judicial administration of the Indian colonies was that "A system should be formed, which shall preserve as much as possible can be done, their institutions and laws to the natives of Hindoostan, and attempter them with the mild spirit of the British government." ([Kugle, 2001](#)) In 1772, the British government had already laid down a Regulation stating that, "inheritance, marriage and costs and other usages or institutions the laws of the Koran with respect to the Mahomedans . . . shall be invariably adhered to." ([Liebesny, 1967](#), [Fyzee, 1963](#))

Thus, the administrators of the BEIC decided that both Hindu and Muslim Laws would be applied in the civil legal matters of the respective communities and that the Muslim Law would be applied universally for the criminal legal issues, as had been the case under the Mughals. ([Benton, 2002](#)) Accordingly, an inclusive legal policy was enacted based on two principles: *taqlīd* ("conformity" to legal precedent, traditional behavior, and doctrines), borrowed from Islamic Law, and the Common Law Doctrine of Precedent, borrowed from the British Law. For this purpose, al-Marghīnānī's (d. 1196) *al-Hidāya*, a compendium of Ḥanafī legal principles, was also translated into English and published by Charles Hamilton (d. 1792) in 1791. ([Calder, n.d.](#)) Subsequently, a hierarchy of legal courts under European judges was constituted. Both local Hindu legal experts and Muslim *qāzīs* (Muslim legal experts and judges) were hired to assist European judges in interpreting religious and local rules and resolving legal matters of local nature. Hence, on the one hand, British statutory laws were applied in the courts, and on the other hand, customary Indian rules and religious rules were given weightage to administer the region properly under dominion. In unusual circumstances where

customary laws and religious doctrines were silent, the judges were instructed to decide based on “justice, equity, and good conscience.” ([Singha, 2000](#))

The transfer of the government from the BEIC to the British Crown in 1858 paved the way for a gradual codification of laws along the lines of the British System. The Anglicized courts administered the Islamic Law, which was subject to the supreme authority of the Privy Council. At the same time, the Customary Laws, based on the local customs, retained their share in the new dispensation. ([Metcalf, 1997](#)) In this process, to avoid the displacement of the already existing Mughal legal system, the British deemed it appropriate to keep certain parts of the already working Islamic Law in a kind of fossilized form. This retention, combined with the introduction of English legal principles and concepts, led to a fusion of the two systems, resulting in a new by-product code aptly termed as ‘Anglo-Muhammadan Law.’ ([Masud, n.d.](#))

During colonial rule, the decisions taken by the courts under Anglo-Muhammadan law were recorded and published, and this process led to the formation of the corpus of jurisprudence. In contrast, the works produced by legal jurists and authors to simplify decisions in the court played a vital role in facilitating the legal process and generating literature based on the Anglo-Muhammadan law. Finally, in 1937, the Muslim Personal Law Application Act was promulgated, with provisions for all cases concerning Muslims’ personal status, inheritance, and waqfs. ([Liebesny, 1967](#))

Succession issues in the matters of religious institutions were generally solved according to these laws. In All India Reporter (AIR) 1930 Lahore 728, it was laid down that the succession to the office of the *sajjāda-nishīn* did not depend on the ordinary law of property but the rules if any made by the founder, and that no right of inheritance could attach to the office. Similarly, where the rules were not expressed in the endowment deed, they could be deduced from the usage of particular institutions. Likewise, in AIR 1938 Lahore 905, it was held that the question of succession to the office of the *sajjāda-nishīn* and *mutavallī* was to be governed by the direct evidence of an old document, if any such document existed, that otherwise, the general rule was to ascertain what the usage of a particular shrine was, and that the succession would be governed by such ascertained usage. Sir Mulla, in his work, considered it a settled doctrine that in the matter of succession, each religious institution was governed by its own usage and custom and not necessarily or invariably by the strict principles of Muhammadan Law. He believed that the Muhammadan Law itself expressly saved and protected usage. ([Mulla, 1907](#))

The cases of succession to the office at Sufi shrines solved in the pre-partition period played an important role in the court decisions of the post-partition times as precedents. After independence in 1947, many changes appeared in the codification of different Ordinances and Acts promulgated by the new State of Pakistan, which also played an important role in determining Sufi shrines’

succession issues. The Punjab Muslim Personal Law (Shariat Act) was promulgated on March 15, 1948, according to which the adopted son of a *sajjāda-nishīn* could not be the legal heir, thereby making him unlawful to have the office of the *sajjāda-nishīn*. Later, when the West Pakistan Auqāf Department was created in the late 1950s and took over the managerial control of some major Sufi shrines, it had no authority to appoint a *sajjāda-nishīn*. Nevertheless, according to section 7 (2) of the Auqāf Act 1979, it was prohibited by the Government of Punjab to perform *rasūmāt* (ceremonies) related to any shrine or *darbār* or *dargāh* without the prior permission of the Department authorities, and this seriously questioned the validity of the traditional shrine authority in the office, the *sajjāda-nishīn*.

### **History of Succession at the Shrine of Bābā Farīd (Pakpattan)**

Following three cases emerged at the shrine of Bābā Farīd regarding the appointment of a successor to the office of *sajjāda-nishīn* during the 19<sup>th</sup> and 20<sup>th</sup> centuries.

#### **First Litigation (1885-94)**

The course of litigation in the official courts began after the death of Dīvān Allāh Javāya, the 24<sup>th</sup> *sajjāda-nishīn* of the shrine of Bābā Farīd, in December 1884. Dīvān Allāh Javāya had appointed his daughter's son (as well as the adopted son) Dīvān Said Muḥammad (d. 1934), as his successor, through an oral statement made during the year 1882 (in the presence of a group of followers) as well as through his *vaṣīyyat* or *khlāfat-nāma* (written "will" or "deed of succession"), five months before his death. Dīvān 'Abd al-Raḥmān (d. 1891), the paternal uncle of the deceased *sajjāda-nishīn*, claimed the office, declaring himself the nearest agnate to the dead, on the fourth day after the death of the late *sajjāda-nishīn*, thereby succeeding the *gaddī* and the properties affiliated with the institution. Dīvān Said Muḥammad was then a minor, eleven years old. Pīr Fataḥ Muḥammad, the father of Said Muḥammad and the son-in-law of the deceased *sajjāda-nishīn*, challenged the claim of Dīvān 'Abd al-Raḥmān in the court of the District Judge of the Montgomery District on behalf of his son. Proceedings went on for about four years. The Deputy Commissioner Montgomery decided the case in his capacity of District Judge Montgomery on April 28, 1888, in favor of Dīvān Said Muḥammad, who was installed as the 25<sup>th</sup> *sajjāda-nishīn* of the shrine. (*Judgment dated April 28, 1888, by the District Judge Montgomery*, n.d.) Against this decision by the District Court, Dīvān 'Abd al-Raḥmān appealed in the Chief Court of Punjab, in which he succeeded: he was consequently reinstated as the *sajjāda-nishīn* on April 10, 1890. (*Judgment dated April 10, 1890, by the Chief Court Punjab*, n.d.)

Said Muḥammad made a further appeal to the Privy Council, but before any decision was made, Dīvān 'Abd al-Raḥmān died and was succeeded by his son

Dīvān Fataḥ Muḥammad as the *sajjāda-nishīn* of the shrine of Bābā Farīd. Said Muḥammad's appeal to the Privy Council was accepted in November 1894. Therefore, Fataḥ Muḥammad had to vacate the *gaddī* in favor of Dīvān Said Muḥammad who finally became the 25<sup>th</sup> *sajjāda-nishīn* of the shrine of Bābā Farīd. ([\*Judgment dated November 6, 1894, by the Privy Council, n.d.\*](#))

## Second Litigation (1935-42)

After the death of Dīvān Said Muḥammad on December 26, 1934, another dispute started between the son of the deceased *sajjāda-nishīn* and the descendants of Pīr Fataḥ Muḥammad, the ex-claimant to the office in the last succession case.

In March 1933, by a testamentary document or *khilāfat-nāma*, Dīvān Said Muḥammad appointed his minor son Dīvān Ghulām Quṭb al-Dīn (1923-1986) as his heir and successor and later confirmed his decision by a deathbed will in December 1934. On January 27, 1935, a faction of local Chishṭī clan consisting of certain descendants of Shaikh 'Alā' al-Dīn Mauj Daryā, (d. 1334), the second *sajjāda-nishīn* of the shrine of Bābā Farīd, performed the *dastār-bandī* (tying of a turban, denoting installation of someone in the office, followed by the Sufīs) of Dīvān Ghulām Rasūl (d. 1964), son of Dīvān Fataḥ Muḥammad, as the next *sajjāda-nishīn* of the shrine of Bābā Farīd. This ceremony took place at the residence of Dīvān Ghulām Rasūl, beside the shrine (Though the District authorities under section 144, Criminal Procedure Code, issued a prohibitory order to hold such ceremony outside shrine premises). A declaration was also executed, on behalf of the descendants of Shaikh 'Alā' al-Dīn Mauj Daryā, declaring that Dīvān Said Muḥammad could not nominate and appoint his successor without their consent.

However, on the strength of his nomination, Ghulām Quṭb al-Dīn assumed the office of the *sajjāda-nishīn*, and he took possession of the shrine and its properties. A *dastār-bandī* ceremony was performed in the presence of many followers and *sajjāda-nishīns* of some important shrines, on February 1, 1935, where he was installed as the 26<sup>th</sup> *sajjāda-nishīn* of the shrine of Bābā Farīd. His accession led to the institution of a civil suit by Dīvān Ghulām Rasūl. In 1936, the Deputy Commissioner of the Montgomery District, in his capacity of Court of Wards, took over the shrine management, and the case was defended by the Manager, Court of Wards, on behalf of Ghulām Quṭb al-Dīn.

The case remained in courts for about seven years (1935-1942) and was decided in favor of the preceding *dīvān*'s son, Dīvān Ghulām Quṭb al-Dīn, by all three courts: Sub-Judge, First Class, Montgomery, – Lahore Chief Court, – and the Privy Council. and Dīvān Ghulām Quṭb al-Dīn was finally installed as the 26<sup>th</sup> *sajjāda-nishīn* of the shrine of Bābā Farīd in 1942. ([\*Judgment dated December 2, 1938, by the Sub-Judge, First Class, Montgomery, n.d.\*](#))([\*Judgment dated May 6,\*](#)

[1941, by the Chief Court Punjab, n.d.\) \(Judgment \(1942\), by the Privy Council, n.d.\)](#)

### **Third litigation, 1986 onward**

The only succession dispute of the post-partition time appeared after Dīvān Ghulām Quṭb al-Dīn's death in 1986. The case is still in the process of litigation, waiting for its conclusion. The principal claimants to the office of the *sajjāda-nishīn* are the eldest son and the younger brother of late Dīvān Ghulām Quṭb al-Dīn.

Dīvān Ghulām Quṭb al-Dīn appointed his eldest son, Maudūd Mas'ūd, as his successor in the office. In this regard, a formal *rasm-i dastār-bandī* was also performed in the shrine, and a Public Notice was published in the Urdu daily *Navā-yi vaqt* on November 14, 1980.

The following year, on September 13, 1981, another Public Notice appeared in two Urdu dailies, *Navā-yi vaqt*, and *Mashriq*, on behalf of Dīvān Ghulām Quṭb al-Dīn, in which he disqualified Dīvān Maudūd Mas'ūd as being an incompetent person to perform the duties of the shrine in his absence. The issue of appointment was left pending until further declaration.

Dīvān Ghulām Quṭb al-Dīn breathed his last on August 19, 1986, just a few weeks before the annual 'urs festival started. On his demise, Dīvān Maudūd Mas'ūd claimed to be the next *sajjāda-nishīn* of the shrine. On the third day after Ghulām Quṭb al-Dīn's death, Maudūd Mas'ūd was formally installed in the office in the presence of dignitaries, of many *Chishtī* elders like Kh<sup>w</sup>āja Mu'īn al-Dīn Taunsavī, Makhdūm Sajjād Hussain Qureshī, the then Governor of Punjab (1985-88), Ghulām Muḥammad Aḥmad Khān Mānekā (d. 2011), Member of National Assembly of Pakistan and a Federal Minister, Mīyān Ghulām Farīd Chishtī, Member of the Provincial Assembly, of many Auqāf and local administration officials, and a massive gathering of *murīds* of the shrine of Bābā Farīd.

Within 50 days after the demise of Dīvān Ghulām Quṭb al-Dīn, on October 7, 1986, Dīvān Ghulām Quṭb al-Dīn's younger brother Dīvān Bakhtiyār Saīd Muḥammad filed a suit in the Civil Court of Pakpattan claiming the right to perform *rasūmāt* as being the legal heir of the deceased Dīvān. The case filed by Dīvān Bakhtiyār Saīd Muḥammad was decided in July 1993, in his favor. ([Judgment dated July 19, 1993, by the Court of Civil Judge Class II, Pakpattan., n.d.](#)) Accordingly, he assumed the office of the *sajjāda-nishīn*.

Dīvān Maudūd Mas'ūd challenged this trial court judgment in the court of the District Judge Sahiwal. During the course of the litigation in the District Court, Dīvān 'Azmat Saīd Muḥammad, younger brother of Dīvān Maudūd Mas'ūd, filed an application for being impleaded as a party, claiming himself to be the appointed *sajjāda-nishīn* of the shrine. The Additional District Judge Sahiwal decided both the appeals of Dīvān Maudūd and Dīvān 'Azmat in May 1996, deciding for the



restoration of Maudūd Mas‘ūd as the 27<sup>th</sup> *sajjāda-nishīn* of the shrine of Bābā Farīd after three years of gap. The application of Dīvān ‘Azmat was rejected. ([Judgment dated May 8, 1996, by the Additional District Judge Sahiwal, n.d.](#))

Dīvān Bakhtyār Said Muḥammad and Dīvān ‘Azmat approached the LHC against the judgment of the District Court, through their separate Revision Petitions. In the course of proceedings in the LHC, an incident of significance occurred at the shrine. More than thirty-two people were run over and died while 18 were injured in a stampede on the occasion of the annual ‘*urs* of Bābā Farīd at Pakpattan during the first night of the opening of the Bahīshī Dravāza, around 11:00 PM on March 31, 2001. The inquiry report held Dīvān Maudūd Mas‘ūd responsible for the incident, along with the District Administration officials. ([Inquiry Report Dated April 30, 2001, n.d.](#))

Although this incident and related judicial and official proceedings had nothing to do with the appeal pending in the LHC on the succession issue, it had profound effects over the credibility of the character of the *sajjāda-nishīn* in office, Dīvān Maudūd Mas‘ūd. Dīvān Bakhtyār Said Muḥammad used the judicial inquiry and the subsequent Orders issued by the Auqāf head office in his appeal before the LHC to prove Dīvān Maudūd Mas‘ūd incapable of holding the office of *sajjāda-nishīn*. Therefore, in the succeeding judgment of the LHC, the Order of the trial court (of 1993) was decreed and Dīvān Bakhtyār Said Muḥammad was restored in the office after over a decade, in May 2006. ([Judgment dated May 29, 2006, by the Lahore High Court Lahore, n.d.](#)) Accordingly, the Auqāf Department issued a Notification in favor of Dīvān Bakhtyār Said Muḥammad to perform the *rasūmāt* at the shrine. ([Order No. SOP 5\(17\)A Dated May 30, 2006, Office of the Chief Administrator Auqaf Punjab Lahore., n.d.](#)) The LHC again rejected Dīvān ‘Azmat Said Muḥammad’s plea in the combined judgment.

Both the brothers challenged this decision of the LHC in the Supreme Court of Pakistan. On January 15, 2007, the Chief Justice of Pakistan converted Maudūd’s Civil Petition into an Appeal. Therefore, the judgment of the LHC was set aside, and the case was remanded for decision afresh in the LHC. Accordingly, the Auqāf Department issued an Order, on January 16, 2007, by which Dīvān Maudūd Mas‘ūd was allowed to perform ceremonies at the shrine during the ‘*urs*. ([Order No. SOP 5\(17\) 1, January 16, 2007, Office of the Chief Administrator Auqaf Punjab Lahore, n.d.](#)) The LHC took its decision on the revised appeal in October 2007. Dīvān Maudūd Mas‘ūd was restored in the office. ([Judgment dated October 29, 2007, by the Lahore High Court, Lahore, n.d.](#))

The case is still pending with the Supreme Court of Pakistan, and Dīvān Maudūd Mas‘ūd is the declared *sajjāda-nishīn* at present, under the latest decision of the LHC. In the current scenario, only Dīvān Maudūd Mas‘ūd and Dīvān Bakhtyār Said Muḥammad are the active claimants to the office, but two persons are dormant claimants as well: Dīvān ‘Azmat Said Muḥammad and Dīvān ‘Azmat

Maḥmūd Chishtī, the great-grandson of Dīvān Ghulām Rasūl, who is also the son-in-law of Dīvān Maudūd Mas‘ūd.

### **Subject Matter of the Succession Cases of the Shrine of Bābā Farīd**

All the succession cases that came under the official courts' proceedings have similar subject matters: whether the deceased *sajjāda-nishīn* has a right to appoint his successor, within certain kinship to the founder, according to the custom and usage of the shrine.

In the first case (1885-94), Dīvān Said Muḥammad claimed to be the appointee of the deceased Dīvān Allāh Javāya. In comparison to that, Dīvān ‘Abd al-Raḥmān claimed the right to occupy the *gaddī* under the Anglo-Muḥammadan Law, as being the nearest agnate to the deceased. Dīvān ‘Abd al-Raḥmān also contended that there had been no appointment of Dīvān Said Muḥammad as *sajjāda-nishīn* and that the deceased *sajjāda-nishīn* had no right to appoint a successor under the Muḥammadan Law, which governed the case. The judge relied upon the mutually authenticated Persian *Javāhir-i-Farīdī* to sort out the matter. The District Judge decided that the late *sajjāda-nishīn* had the power under the custom of the shrine to appoint a successor to the *gaddī*. However, the judges of the Chief Court Punjab decided the appeal without going into the question of the custom involved: they dismissed Dīvān Said Muḥammad's suit on the preliminary ground that the will of Dīvān Allāh Javāya was not legally proved. They argued that the preceding *sajjāda-nishīn* was not in a condition to decide appropriately (due to an attack of paralysis) and was unduly influenced by the surrounding persons (especially the father of Said Muḥammad).

However, the Privy Council reversed the findings of the Chief Court, decreeing in favor of the plaintiff Dīvān Said Muḥammad. The decision of the District Court was entirely confirmed, and it was laid down unequivocally that the custom of succession in the case of the shrine of Bābā Farīd was that the *sajjāda-nishīn* in office was competent to nominate his successor during his lifetime if the nominee was an agnate and also a *murīd* or disciple. The privy councillors opined that the witnesses for Dīvān Fataḥ Muḥammad seemed to alternate between a strict application of the Muḥammadan Law of succession and a popular choice which had to be determined by the wishes of the worshippers. They also ascertained that the preceding *sajjāda-nishīn* was able to appreciate the nature and the consequences of what he was doing and was open to persuasion from both sides. Therefore, the main ground for Dīvān Said Muḥammad's title was his nomination by the preceding *sajjāda-nishīn* following the usage of the shrine.

In the second succession case (1935-42), the claimant, Dīvān Ghulām Rasūl, in his plea, alleged that Ghulām Quṭb al-Dīn was not the natural son of the late *sajjāda-nishīn*, that he was not appointed as *sajjāda-nishīn*, and that the nomination of a minor boy was invalid and against the principles of Muḥammadan

Law. On the one hand, he admitted that great weight would naturally attach to the wishes of the last holder of the office in the matter of succession, but on the other hand, he contended that the ultimate approval had to rest, by custom, with the *birādarī* (patrilineal lineage) - vis. The descendants of Shaiḫh ‘Alā’ al-Dīn Mauj Daryā (d. 1334), who had the final and conclusive authority not only to select a successor but also to reject a nomination which they considered unsuitable.

Ghulām Quṭb al-Dīn defended these allegations and claims in the light of the previous case of succession (1885-94). To sort out the matter, the sub-judge first-class, Montgomery, whose decision was also affirmed by the Chief Court Punjab, went deeply into the case and drew a detailed narrative of the history of the succession matters of the shrine of Bābā Farīd. The judge maintained that although Shaiḫh ‘Alā’ al-Dīn Mauj Daryā, the 2<sup>nd</sup> *sajjāda-nishīn*, had two sons, and Shaiḫh Tāj al-Dīn Maḥmūd, the 13<sup>th</sup> *sajjāda-nishīn*, had 15, yet none of these or their descendants ever exercised any right in appointing a *sajjāda-nishīn*. He concluded that not a single appointment was shown to have been made or decided by the descendants of Shaiḫh ‘Alā’ al-Dīn Mauj Daryā or any group of people based on election or selection. All the appointments were made, invariably and consistently, by the *sajjāda-nishīns* in the office. In his judgment, the judge also settled that the *dastār-bandī* ceremony was not a ceremony of selection but a ceremony of installation. Therefore, considering the tradition and usages related to the office, he justified his interference because nominations were made in each case. The judge bluntly rejected the claimant’s contention that the usage and practice were opposed to the provisions of Section 2 Shariat Act 1937 (Act no. XXVI of 1937). He remarked that the witnesses of the plaintiff had simply established the custom pleaded for by the plaintiff by citing instances in which the *birādarī* had abrogated or overridden the nomination made by the last *sajjāda-nishīn* on the ground of his incompetency. He also stated that the Shariat Act came into force after filing the suit and was not applicable to the matter in dispute. Furthermore, he argued that the appointment of a *sajjāda-nishīn* on the ground of nomination was not an antagonist to the principles of Muḥammadan law. ([Judgment dated December 2, 1938, by the Sub-Judge, First Class, Montgomery, n.d.](#))

In the words of Richard Maxwell Eaton, who have analyzed this case in his article, “... the District Court in the end merely ratified what it deemed to be the customary practice with regard to succession at the shrine, and then declared its judgment to be in conformity with Islamic Law.” ([Eaton, 1982](#)) Here again, the nomination by the deceased *sajjāda-nishīn* was given weightage as a custom of the shrine over any other claim. According to the ratio of the judgments discussed above, it was established that the incumbent of the shrine of Bābā Farīd had absolute authority and discretion to nominate and appoint his successor according to the norms and traditions established at this shrine. Secondly, there was no dispute over the appointment of a *sajjāda-nishīn* under Muḥammadan Law or on the principle of Primogeniture.

In the third succession case (1986-till date), Dīvān Bakhtyār Said Muḥammad claimed himself the real heir of his brother as being the “rightful person” to hold and run the office of the *sajjāda-nishīn*, given his continuous association in the ceremonies attached to the shrine (he performed rituals in the absence of Dīvān Ghulām Quṭb al-Dīn when he proceeded to Makkah to perform Haj in 1973). He also based his claim on his acquaintance with the affairs of the shrine and the office of the *sajjāda-nishīn* (during proceedings of the case, he claimed that he made numerous improvements in the shrine complex and rendered services to the visitors), and he challenged the competence of Dīvān Maudūd Mas‘ūd for the office of custodianship, who was disqualified by late Dīvān Ghulām Quṭb al-Dīn, as published in the Urdu dailies of September 1981.

On the other hand, Dīvān Maudūd Mas‘ūd defended the case based on his stated appointment (November 1980), that he was the eldest son of the deceased as well as the one declared and installed by dignitaries before a massive crowd through a formal *dastār-bandī*. Maudūd Mas‘ūd also challenged the claims of Bakhtyār Said Muḥammad based on Bakhtyār’s strained relations with the previous *sajjāda-nishīn*, which were manifested in several cases in courts. He claimed that Dīvān Bakhtyār Said Muḥammad did not attend the funeral as well as later ceremonies of the deceased *sajjāda-nishīn* due to differences between them. Therefore, there was no chance of an appointment of Dīvān Bakhtyār Said Muḥammad as *sajjāda-nishīn* by Dīvān Ghulām Quṭb al-Dīn. Dīvān Maudūd Mas‘ūd also contested the allegations by Dīvān Bakhtyār Said Muḥammad that he was disqualified. He claimed that Bakhtyār Said Muḥammad had forged the 1973 Auqāf letter allowing him to perform rituals during the ‘*urs* as well as the Public Notice of his disqualification in 1981. The letter issued by the Auqāf in 1973 (permitting performing the ceremonies at the shrine to Dīvān Bakhtyār in the absence of the *sajjāda-nishīn*) was challenged by Maudūd Mas‘ūd on the basis that the Auqāf had no authority to issue such a letter. He contended that the Auqāf Department had the only managerial right for the shrine and no authority to appoint the *sajjāda-nishīn*. Maudūd Mas‘ūd also claimed that even in 1973, Ghulām Quṭb al-Dīn returned from Saudi Arabia before the commencement of the ‘*urs* ceremonies, which he served, and that Bakhtyār never performed rituals.

As for Dīvān ‘Azmat Said Muḥammad, he pleaded in his application that the late *sajjāda-nishīn* had held Maudūd Mas‘ūd disqualified for the office of the *sajjāda-nishīn*. He also claimed that his late father had nominated him as *sajjāda-nishīn*, in the year 1986, that both the other contenders to the office of the *sajjāda-nishīn* were disqualified, and that he, being a validly nominated successor of the late *sajjāda-nishīn*, was entitled to hold it (he produced a will, dated January 1, 1986, in this regard).

The judge of the first trial court decided the case in favor of Dīvān Bakhtyār Said Muḥammad, declaring him a more suitable person to hold the office of *sajjāda-nishīn* in comparison to his nephew, Maudūd Mas‘ūd, who seemed to be

more inclined towards worldly affairs and was disqualified by his father. The judge concluded that in the absence of any will, the matter should be solved according to the required fitness of the person and the needs of the office.

The District Judge, in the first appeal, decided the case in favor of Dīvān Maudūd Mas'ūd, declaring Dīvān Bakhtyār Said Muḥammad an unfit person who had brought criminal complaints against his brother, the *ex-sajjāda-nishīn*. The District Judge also gave weightage to the appointment of Maudūd Mas'ūd in 1980 based on the intentions of the late *sajjāda nishīn*, even if Maudūd was disqualified afterwards.

In the judgment of May 29, 2006, the LHC judge validated the decision of the trial court (July 1993) in favor of Dīvān Bakhtyār Said Muḥammad. In the remanded revision appeal to the LHC by the Supreme Court of Pakistan, the judge of the LHC held that “Unfortunately both the parties to this petition do not qualify to the test of ‘Tasawaf’, but they cannot be dislodged from their respective claims... I, therefore, confine myself to the questions raised and arise out of the judgment impugned in the petition.” ([Judgment dated October 29, 2007, by the Lahore High Court, Lahore, n.d.](#))

The judge, in the judgment of October 2007, based on the evidence produced in the court, declared that the relations between Dīvān Bakhtyār Said Muḥammad and the late *sajjāda-nishīn* were strained and that both remained locked in litigation. Dīvān Bakhtyār had filed a criminal complaint against the late *sajjāda nishīn*. Dīvān Ghulām Quṭb al-Dīn also appeared as a witness against his younger brother. The judge concluded that in such conditions, the late Dīvān would never have allowed Dīvān Bakhtyār to perform ceremonies at the shrine.

The plea of Dīvān ‘Azmat Said Muḥammad was rejected in both the appellate courts, the District Court Sahiwal and the LHC, because he appeared as a witness in favor of his brother Dīvān Maudūd Mas'ūd during the legal proceedings in the trial court on October 25, 1989, which would not have been possible in the presence of a will in his favor. Therefore, both the appellate courts declared the will produced by Dīvān ‘Azmat Said Muḥammad as a forged will of no importance.

### **Intra-Family Tussles, and the State Involvement in the Succession Issues: Local Moral Standing of the Sajjāda-Nishīn of the Shrine of Bābā Farīd**

From the above discussion, it can be gathered that, compared to the pre-colonial scenario, the modern state assumed a mediatory role in the succession disputes at the shrine of Bābā Farīd during the colonial and postcolonial periods times. Although the nomination of a successor by the last *sajjāda-nishīn* was the accepted norm of Bābā Farīd’s shrine for centuries, in all the cases studied above, legal courts had to solve the disputes, which had arisen among competing claimants to the succession of a deceased *sajjāda-nishīn*. The change was a major one in the

Sufi shrines sphere since the secular institutions of the state court system now took decisions regarding matters which earlier used to be of the sole competence of the Chishtī elders.

As far as the spiritual mediatory role of the shrine in colonial times is concerned, Richard Maxwell Eaton has written an excellent article to assess the local authority of the shrine of Bābā Farīd by drawing an inquiry into the intermediary position of the shrine and its traditional custodians, on the one hand, ‘between the followers and God’, and on the other hand, ‘between masses and the rulers’, relying on the court proceedings of the second litigation described above, i.e., 1935-42. Eaton has clearly shown that the role of *sajjāda-nishīn* was on the decline but opines that the local perceptions of his spiritual authority were still intact. Whatever the private person the *sajjāda-nishīn* was, far from the role models of Bābā Farīd or his earliest *sajjāda-nishīns* in Ajūdhan, he was regarded by the local followers of the shrine as a mediator between God and themselves. Eaton is of the view that the colonial era succession cases had nothing to do with the following of Bābā Farīd in Pakpattan, and he quotes one of the witnesses from the proceedings of the 1935-42 succession case: “I am a follower of the Gaddi Nashin whosoever may be occupying it”. He further adds, “To the masses of devotees in Pakpattan; however, the little drama unfolding in the district courthouse in Montgomery was apparently irrelevant to their religious concerns.” ([Eaton, 1982](#))

As far as the devotion of the following is concerned, Eaton is undoubtedly correct. But such is not the case regarding the coherence of the following. One of the present research findings is that the following of the shrine of Bābā Farīd was highly disturbed by the legal litigation on the matters of succession. The Chishtī clan, as well as other followers of the *gaddī* in Pakpattan, were divided into factions behind different claimants to the office of the *sajjāda-nishīn*. This phenomenon divided not only the followers but also such Chishtī elders as the *sajjāda-nishīns* of various shrines. For example, Mīyān ‘Alī Muḥammad, *sajjāda-nishīn* of Bassī Sharīf, appeared on the side of Dīvān Ghulām Quṭb al-Dīn, while Sayyid Āl-i Rasūl ‘Alī, *sajjāda-nishīn* of Ajmer Sharīf, appeared on the side of Dīvān Ghulām Rasūl in 1935-42 succession case. ([Judgment dated December 2, 1938, by the Sub-Judge, First Class, Montgomery, n.d.](#))

Furthermore, the proceedings of the cases unfolded a strange blame game, proving opposite parties’ liars, which led to the ill-repute of the custodian family of the shrine of Bābā Farīd. The shrine, which was a sign of harmony, peace, and love for centuries, became a place of intrigues and tussles. The sanctity of the descendants of Shaiḫ Farīd al-Dīn Mas’ūd Ganj-i Shakar, for long so prominent locally and afar, is now on the verge of decadence because of such disputes.

In the pre-colonial scenario, the local people depended on the shrine custodian to solve their disputes. But the succession disputes at the shrine of Bābā Farīd shifted this trend and made the shrine custodians dependent on the temporal state

machinery and the local masses to be helpful in their pursuit of claims to the office. Once, others used to come to the shrine custodian, and now, the latter is turning to the city, the citizens, and the temporal legal establishment of the city for the solution of their matters.

## Conclusion

Conclusively, it can be summed up that a significant paradigmatic shift occurred regarding the succession issues to the offices of custodians in Sufi institutions from under medieval to the modern state in the Indian subcontinent. Regarding the succession disputes of the shrine of Bābā Farīd in Pakpattan, it is noted that the state assumed the mediatory role, which was a prerogative of the Chishtī elders in medieval times. In comparison to the pre-colonial scenario, the state policies, under the modern state after the mid-19<sup>th</sup> century and later in postcolonial times, became more critical for the *sajjāda-nishīn* of the shrine of Bābā Farīd, and this made him gradually more and more dependent upon official settings. The intensification of the intra-family tussles about succession to the office, control over the validity in the office through the mediation of succession disputes by the state judiciary in deciding the lawful office bearers, and the swivelling of the *sajjādagī* within the family grievously harmed the established prestige and moral and religious standing of the office of *sajjāda-nishīn*. The religious prominence of the shrine as Bābā Farīd's house and being the principal sacred space in the region has remained intact amongst the faithful; however, the custodians' instability and shakiness also weighed in the evolution of their local socio-religious standing, though, the norm of institutional usage, established at the shrine during the medieval period, prevailed even during the contemporary litigations of succession disputes.

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