

## **Mandla (Sewa Singh) and another v Dowell Lee and others [1983] 2 AC 548**

### **1) Reference Details**

Jurisdiction: United Kingdom of Great Britain and Northern Ireland,

Date of Decision: 24 March 1983

Case Status: Concluded (House of Lords)

Link to full case: [http://www.hrcr.org/safrica/equality/Mandla\\_DowellLee.htm](http://www.hrcr.org/safrica/equality/Mandla_DowellLee.htm)

### **2) Facts**

The claimants in this case were Sewa Singh Mandla and his son Gurinder Singh Mandla. The Mandlas were an orthodox Sikh family who wore turbans and did not cut their hair.

The first respondent, A.G. Dowell Lee, was the headmaster and principle shareholder of the company that owned the Park Grove School, Birmingham. The second respondent, Park Grove Private School Limited, was the company that owned Park Grove School. In July 1978 the respondents refused to admit Gurinder Singh to the school on the grounds that contrary to school uniform rules he refused to cut his hair and remove his turban.

The Mandlas complained to the Commission for Racial Equality that they had been racially discriminated against. The Commission adopted the case and sought a declaration that the defendants had acted contrary to the Race Relations Act 1976 (the Act) by unlawfully discriminating against Gurinder Singh. At first instance the Mandlas claim was dismissed on the grounds that Sikhs were not a racial group for the purpose of the Act and therefore no discrimination had occurred that was contrary to the Act. The Mandlas appeal to the Court of Appeal was also rejected. However, leave to appeal to the House of Lords was granted.

### **3) Law**

#### *National Law*

- The Race Relations Act 1976

#### *International Law*

- International Convention on the Elimination of All Forms of Racial Discrimination (1969)

#### *Case Law*

- *King-Ansell v Police* [1979] 2 N.Z.L.R. 531
- *Price v Civil Service Commission* [1977] 1 W.L.R. 1417
- *Panesar v Nestlé Co Ltd (Note)* [1980] I.C.R. 144
- *Ealing London Borough Council v Race Relations Board* [1972] A.C. 342
- *Clayton v Ramsden* [1943] A.C. 320; [1943] 1 All E.R. 16, H.L. (E.).
- *National Vulcan Engineering Insurance Group Ltd v Wade* [1979] Q.B. 132; [1978] 3 W.L.R. 214; [1978] I.C.R. 800; [1978] 3 All E.R. 121, C.A.
- *Ojutiku v Manpower Services Commission* [1982] I.C.R. 661, C.A.

- *Seide v Gillette Industries Ltd.* [1980] I.R.L.R. 927, E.A.T.
- *Singh v Rowntree MacKintosh Ltd* [1979] I.C.R. 554, E.A.T.
- *Steel v Union of Post Office Workers* [1978] 1 W.L.R. 64; [1978] I.C.R. 181; [1978] 2 All E.R. 504, E.A.T.
- *Tucks Settlement Trusts, In re* [1978] Ch. 49; [1978] 2 W.L.R. 411; [1978] 1 All E.R. 1047, C.A.

#### 4) Legal Arguments

##### *The Commission for Racial Equality*

The Commission for Racial Equality argued that A. G. Dowell Lee and Park Grove Private School Ltd. had acted contrary to the Race Relations Act 1976 by unlawfully discriminating against Gurinder Singh Mandla.

#### 5) Decision

The House of Lords unanimously, 5:0, held in favour of the Commission for Racial Equality.

In the leading opinion of the Court Lord Fraser of Tullybelton stated that the definitions of groups protected by the Race Relations Act should be construed widely. Lord Fraser held that:

*"[T]he main question in this appeal is whether Sikhs are a 'racial group' for the purposes of the Race Relations Act 1976 ('the Act of 1976'). For reasons that will appear, the answer to this question depends on whether they are a group defined by reference to 'ethnic origins'."*

The discrimination was only contrary to the Race Relations Act 1976 if the Mandla's could be considered members of a "racial group" "defined by reference to ethnic origins as provided by s. 3 (1) of the Act". In defining the term Lord Fraser took inspiration from the definitions offered by Richardson J. in the New Zealand case of *King-Ansell v Police* [1979] 2 N.Z.L.R. 531. Richardson J. in setting out criteria for establishing member of a racial group:

*"The conditions which appear to me to be essential are these: (1) a long shared history, of which the group is conscious as distinguishing it from other groups, and the memory of which it keeps alive; (2) a cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observance. In addition to those two essential characteristics the following characteristics are, in my opinion, relevant: (3) either a common geographical origin, or descent from a small number of common ancestors; (4) a common language, not necessarily peculiar to the group; (5) a common literature peculiar to the group; (6) a common religion different from that of neighbouring groups or from the general community surrounding it; (7) being a minority or being an oppressed or a dominant group within a larger community, for example a conquered people (say, the inhabitants of England shortly after the Norman conquest) and their conquerors might both be ethnic groups."*

The Court held:

*"[T]hat 'ethnic origins' in the context of that provision meant a group which was a segment of the population distinguished from others by a sufficient combination of shared customs, beliefs, traditions and characteristics derived from a common or presumed common past, even*

*if not drawn from what in biological terms was a common racial stock, in that it was that combination which gave them an historically determined social identity in their own eyes and in those outside the group; that Sikhs were in that sense a racial group defined by reference to ethnic origins for the purpose of the Act, although they were not biologically distinguishable from the other peoples of the Punjab.”*

In agreement with Lord Fraser, Lord Templemen added:

*“I find it impossible to believe that Parliament intended to exclude the Sikhs from the benefit of the Race Relations Act and to allow discrimination to be practised against the Sikhs in those fields of activity where, as the present case illustrates, discrimination is likely to occur.*

*I agree with my noble and learned friend that Gurinder Singh cannot comply with the school rules without becoming a victim of discrimination. The discrimination cannot be justified by a genuine belief that the school would provide a better system of education if it were allowed to discriminate.”*

Lord Templeman also defended the Commission for Racial Equality in bringing the case from criticism by the Court of Appeal:

*“The Race Relations Board were under a duty properly to investigate the present complaint of discrimination and that their conduct was not oppressive.”*