



2025:CGHC:5106

AFR

HIGH COURT OF CHHATTISGARH AT BILASPURWPC No. 206 of 2024Order reserved on 24.01.2025Order delivered on 29.01.2025

1. Bhanu Pratap Singh S/o Shri Pitambar Singh Aged About 57 Years R/o Near Forest Barrier, Khairbaar, Ambikapur, District Sarguja (C.G.) PIN 497001.
Presently Posted As Chairperson, Chhattisgarh Rajya Anusuchit Janjati Ayog, (Chhattisgarh State Scheduled Caste Commission) Bhagat Singh Chowk, Shankar Nagar Road, Near Pahuna, Raipur, District Raipur (C.G.) PIN 492001.
2. Ganesh Dhruw S/o Shri Dharmu Singh Dhruw Aged About 49 Years R/o Govind, B-17, Nayapara Ward, Krishna Nagar, Bhatapara, District Balodabazar (C.G.) PIN 493118
Presently Posted As Member Chhattisgarh Rajya Anusuchit Janjati Ayog (Chhattisgarh State Scheduled Caste Commission) Bhagat Singh Chowk, Shankar Nagar Road, Near Pahuna, Raipur, District Raipur (C.G.) PIN 492001
3. Amrit Lal Toppo S/o Shri Joseph Toppo Aged About 54 Years R/o St. Xavier School, Ambikapur, District Sarguja (C.G.) PIN 497001.
Presently Posted As Member Chhattisgarh Rajya Anusuchit Janjati Ayog, (Chhattisgarh State Scheduled Caste Commission) Bhagat Singh Chowk, Shankar Nagar Road, Near Pahuna, Raipur District Raipur (C.G.) PIN 492001.
4. Smt. Archana Porte W/o Shri Shankar Kanwar Aged About 50 Years R/o Ward No. 15, Girls College, Samta Nagar, Pendra Road, District Gaurela-Pendra-Marwahi (C.G.) PIN 495117
Presently Posted As Member Chhattisgarh Rajya Anusuchit Janjati Ayog (Chhattisgarh State Scheduled Caste Commission) Bhagat Singh Chowk, Shankar Nagar Road, Near Pahuna, Raipur, District Raipur (C.G.) PIN 492001.

... Petitioners

Versus

1. State Of Chhattisgarh Through its Secretary, General Administration Department, Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District Raipur (C.G.) PIN 492002.
2. Secretary, General Administration Department, Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.) PIN 492002.
3. Under Secretary, General Administration Department, Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District Raipur (C.G.) PIN 492015
4. Secretary, Scheduled Tribe & Scheduled Caste Development Department, Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur, District Raipur (C.G.) PIN 492015
5. Under Secretary, Scheduled Tribe & Scheduled Caste Development Department, Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District Raipur (C.G.) PIN 492015

... Respondents

(Cause title is taken from Case Information System)

For Petitioners : Mr. K. Rohan, Advocate

For Respondents/State : Mr. R. S. Marhas, Addl. Adv. General

CAV Order

By

Bibhu Datta Guru, J.

1. By the present writ petition, the petitioners sought a relief to hold that the action of the respondent authorities in issuance of the impugned order dated 15.12.2023 bearing No.F 19-02/2020/25-1(Part) (Annexure – P/2) whereby the State of Chhattisgarh has removed and terminated the services of the petitioners herein in utter and flagrant violation and non-compliance of the provisions of the Chhattisgarh Rajya Anusuchit Janjati Ayog (Sansodhan) Adhiniyam, 2020 is bad in law. The petitioners also sought a relief to issue a writ of certiorari quashing and setting aside the impugned order dated 15.12.2023 (Annexure – P/2).

2. (i) The facts of the case, as projected in the writ petition, are that the erstwhile State of Madhya Pradesh had enacted the Madhya Pradesh Rajya Anusuchit Janjati Ayog Adhiniyam, 1995. Pursuant to reorganisation of the State of Madhya Pradesh, the State of Chhattisgarh was carved out on 01.11.2000. In the light of provisions of the Madhya Pradesh Re-organisation Act, 2000, the State of Chhattisgarh vide Gazette Notification dated 02.09.2002 substituted the Names: "Madhya Pradesh" with "Chhattisgarh" and "Bhopal" with "Raipur", Thus, now the Madhya Pradesh Rajya Anusuchit Janjati Ayog Adhiniyam, 1995 is known as Chhattisgarh Rajya Anusuchit Janjati Ayog Adhiniyam, 1995. The State of Chhattisgarh has enacted the Chhattisgarh Rajya Anusuchit Janjati Ayog (Sanshodhan) Adhiniyam, 2020 (for short 'the Adhiniyam, 2020') to amend the Chhattisgarh Rajya Anusuchit Janjati Ayog Adhiniyam, 1995. Section 3 of the Adhiniyam, 2020 provides for constitution of the Chhattisgarh Rajya Anusuchit Janjati Ayog whereas Section 4 provides for the term of office of service of Chairperson and Members.
- (ii) As per the provisions of Section 3 of the Adhiniyam, 2020, the State of Chhattisgarh vide order dated 16.07.2021 appointed the Petitioner No.1 as the Chairperson and petitioners No.2 to 3 as Members of the Chhattisgarh Rajya Anusuchit Janjati Ayog. Thereafter, the Petitioners were discharging their duties as enshrined under the Adhiniyam, 2020 to the utmost satisfaction of the Government of Chhattisgarh and no complaint whatsoever has ever been received against the Petitioners. However, pursuant to the change of Government,

owing to the State Legislative Assembly Elections conducted in the year 2023, the State of Chhattisgarh vide order dated 15.12.2023 bearing No.2270/1883/2023/I/6 (Annexure-P/1) issued directions to all the Heads of the Departments of the Government of Chhattisgarh to remove the persons who were 'politically appointed' barring those persons who cannot be removed under the provisions of applicable law.

(iii) The Petitioners were under the inference that since their appointment was made exercising the powers conferred under Section 3 of the Adhiniyam, 2020, the order dated 15.12.2023 (Annexure-P/1) would not be made applicable upon them. However, all of a sudden vide the impugned order dated 15.12.2023 (Annexure-P/2) has terminated the services of the Petitioners.

(iv) According to the petitioners, the provisions of Section 4 (3) of the Adhiniyam, 2020 specifically provides for the eventualities when a Member (including the Chairperson) can be removed and the Proviso specifically provides for the grant of opportunity of hearing to the affected person before his/her Termination of Service/removal. In the instant case, there is a flagrant violation and non-compliance of the provisions of the Adhiniyam, 2020 as neither the manner prescribed for removal under Section 4(3) has been followed nor the opportunity of hearing as provided by the proviso accorded to the Petitioners before terminating their Service and, as such, the impugned order is bad in law, therefore, the same may be quashed.

3. (a) Learned counsel appearing for the petitioners would submit that there is a flagrant violation of the provisions of the Adhiniyam, 2020 as neither the manner prescribed for removal under Section 4(3) has been followed nor the opportunity of hearing as provided by the proviso accorded to the Petitioners before passing the order impugned dated 15.12.2023 (Annexure-P/2). He would further submit that even if it is assumed that the appointment of the petitioners is a 'political appointment' subject to the 'pleasure of the State Government', the well established principle of the 'doctrine of pleasure' neither envisages and empowers the State Government to bypass and flout the provisions of law, nor confers complete autonomy upon the State Government to flagrantly ignore the due process of law. A statutory Act/Scheme providing a manner and mechanism has to be followed in its letter and spirit, as any deviation from the same, would result in absolute chaos resulting in according unfettered discretion to the State Government resulting in complete autonomy without any checks and balances.
- (b) Learned counsel would submit that the action of the respondent authorities in issuance of the impugned order whereby the State of Chhattisgarh has terminated the services of the Petitioners is in blatant, complete and utter violation of law. The respondent authority is a 'state' and is duty bound in law to act in a fair manner. The impugned action is in complete contrast to the settled law that where the Government is dealing with the public, it cannot act arbitrarily as per their whims and fancies and like a private individual, but its action must be in conformity with standard or norms which is not arbitrary, irrational or irrelevant.

The power or discretion of the Government must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down unless it can be shown by the Government that the departure was not arbitrary but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.

(c) Learned counsel would next submit that prior to issuance of the impugned order the State ought to have considered that there is no unfettered discretion in public law. The action of the respondent is unilateral and illegal and the impugned action has been taken due to political vindictiveness contrary to the provisions of the Adhiniyam, 2020. He would submit that the impugned order clearly reveals that the same is unsustainable because the petitioners have not earned any of the disqualification. Even proper opportunity of hearing has not been afforded to the petitioners before passing the order impugned. In support of his contention, learned counsel would place reliance upon the decision rendered by this Court in the matter of *Smt. Padma Chandrakar & Others v State of Chhattisgarh & Others*¹ which has been affirmed by the Division Bench of this Court in *State of Chhattisgarh & Another v Smt. Padma Chandrakar & Others*².

4. (A) Learned counsel appearing for the State, *ex adverso*, would submit that the appointment of the petitioners was made only until the pleasure of the Government and as per the decision taken by the Government the

1 WPC No.408 of 2019 (decided on 2-5-2019)

2 WA No.375 of 2019 (decided on 15-10-2019)

same has been cancelled. He would submit that a perusal of the order of appointment dated 16.7.2021 by which the petitioners were appointed would reveal that it was made in consonance with the amendment that has been brought and the same also clearly specify that the appointment was for a period during the pleasure of the Government. Similarly the order has been cancelled referring to the same as is apparent from the impugned order.

(B) To buttress his contention, learned counsel would place reliance upon the decision rendered by the Supreme Court in the matter of *Om Narain Agrawal and Others v Nagar Palika, Shahjahanpur and Others*³, *M. Ramanatha Pillai v The State of Kerala and Another*⁴, *Krishna S/o Bulaji Borate v State of Maharashtra and Others*⁵ and *Cheviti Venkanna Yadav v State of Telangan and Others*⁶ and the decision rendered by the High Court for the State of Telangana in the matter of *Sunkari Mallesham v The State of Telangana*⁷ and would submit that the petitioners' nomination was for the period 'during the pleasure of the Government' and said fact was explicitly mentioned in the order. He would submit that the engagement was cancelled without any stigma and the respondent authorities did not exceed their rights while passing the order impugned. He would submit that the petitioners were not subjected to any process of selection before they were nominated as Chairman & Members. Thus, the principles of natural justice have no application when doctrine of pleasure is invoked.

3 (1993) 2 SCC 242

4 (1973) 2 SCC 650

5 (2001) 2 SCC 441

6 (2017) 1 SCC 283

7 WA Nos.766, 772, 775, 783 and 810 of 2024 (decided on 8-7-2024)

Learned counsel would pray for dismissal of the writ petition filed by the petitioner.

5. I have heard learned counsel appearing for the parties and perused the documents annexed with the writ petition.
6. To adjudicate the present petition, it would be relevant to quote the provisions of Sections 3 & 4 of the Adhiniyam, 2020, which read as under :

Constitution of State Commission for Anusuchit Janjati

3. (1) The State Government shall constitute a body to be known as the Chhattisgarh Rajay anusuchit Janjati Ayog to exercise the power conferred on and to perform the functions assigned to it under this Act.

(2) The Commission shall consist of the following members :-

(a) "Six non official members who have special knowledge in the matters relating to Scheduled Tribes of whom one shall be the chairperson and one shall be the vice chairperson to be appointed by the State Government:

Provided that at least four members including the Chairperson and vice Chairperson, Shall be from amongst the Scheduled Tribes."

(b) Commissioner, Tribal Development, Chhattisgarh

Term of office and conditions of Service of Chairperson and Members

4. (1) "The Chairperson, Vice Chairperson and every member shall hold office, from the date on which he assumes the office, during the pleasure of the state Government."

(2) A member may, be writing under his hand addressed to the State Government, resign from the office of Chairperson or as the case may be, of member at any time.

(3) The State Government shall remove a person from the office of member if that person.

(a) becomes an undischarged insolvent.

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the state Government, involves moral turpitude,

(c) becomes of unsound mind and stands so declared by a competent court.

(d) refuses to act or become incapable of acting.

(e) is without obtaining leave of absence from the Commission, absent from three consecutive meeting of the Commission, or.

(f) has in the opinion of the State Government, so abused the position of Chairperson of Member as to render his continuance in office detrimental to the interests of Scheduled Tribes or the public interest.

Provided that no person shall be removed under this clause unless he has been' given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination and the person so nominated shall hold office for the remainder term of his predecessor.

(5) The salaries and allowance payable to, and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed.

7. Section 4(3) of the Adhiniyam, 2020 speaks about removal of a person from the office if that person (a) becomes an undischarged insolvent; (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the state Government, involves moral turpitude; (c) becomes of unsound mind and stands so declared by a competent court; (d) refuses to act or become incapable of acting; (e) is without obtaining leave of absence from the Commission, absent from three consecutive meeting of the Commission; or (f) has in the opinion of the State

Government, so abused the position of Chairperson of Member as to render his continuance in office detrimental to the interests of Scheduled Tribes or the public interest. Section 4(3) contains a proviso clause which contains that no person shall be removed unless he has been given an opportunity of being heard in the matter.

8. Section 4(3) of the Adhiniyam, 2020 would not be applicable to the facts of the present case, as while passing the order impugned the power conferred under this Section has not been exercised by the authorities. Since the petitioners were nominated with the pleasure of the earlier Government and their ideology is not in sync with the policies or ideologies of the present Government and that the loss of confidence in them by the present Government is the reason for their removal from their nominated posts and the withdrawal of pleasure does not put any stigma on their performance and character.
9. In the facts and circumstances of the case, the doctrine of pleasure has been exercised for valid reasons, namely; loss of confidence by the present Government in the nominated member as well as on the ground that the ideology of the petitioners is not in sync with the policies or ideologies of the present Government. The appointment to the post by way of nomination is political in nature. The aforesaid reasons furnished for invocation of doctrine of pleasure are valid grounds for passing the impugned order.
10. Reliance placed by the petitioners upon the decision rendered by this Court in the matter of *Smt. Padma Chandrakar* (supra) is concerned, the

would not come to the rescue of the petitioners. From the appointment order dated 29.10.2016 (Annexure-P/3 of WPC No.408 of 2019), it is quite vivid that the writ petitioners therein were not appointed with the pleasure of the Government whereas in the case at hand the petitioners were nominated as per Section 4(1) of the Adhiniyam, 2020 which categorically provides that the Chairperson, Vice Chairperson and every member shall hold office, from the date on which he assumes the office, ***during the pleasure of the state Government.*** For the sake of convenience, the nomination order dated 16-7-2021 (Annexure-P/7) and the removal order dated 15-12-2023 (Annexure-P/2) are quoted below :

Nomination order dated 16-7-2021 :

छत्तीसगढ़ शासन
आदिम जाति तथा अनुसूचित जाति विकास विभाग
मंत्रालय,
महानदी भवन, नया रायपुर अटल नगर

// आदेश //

नवा रायपुर अटल नगर, दिनांक 16 जुलाई, 2021

क्रमांक/एफ 19-02/2020/25-1 (पार्ट) : राज्य शासन एतद् द्वारा छत्तीसगढ़ राज्य अनुसूचित जनजाति आयोग अधिनियम-1995 यथा संशोधित अधिनियम-2020 अध्याय-2 की कंडिका-3 के प्रावधान अनुसार छत्तीसगढ़ राज्य अनुसूचित जनजाति आयोग में निम्नानुसार अध्यक्ष/सदस्यों की नियुक्ति करता है :-

स.क्र.	नाम	पदनाम	गृह जिला
1	श्री भानुप्रताप सिंह, पूर्व विधायक	अध्यक्ष	सूरजपुर
2	श्री गणेश ध्रुव	सदस्य	बलौदाबाजार-भाटापारा
3	श्री अमृत टोप्पो	सदस्य	सरगुजा
4	श्रीमती अर्चना पोर्ते	सदस्य	गौरैला-पेण्ड्रा-मरवाही

2/ नियुक्त अध्यक्ष/सदस्यों का कार्यकाल छत्तीसगढ़ राज्य अनुसूचित जनजाति आयोग, में पदग्रहण की तिथि से अधिनियम की धारा 4 की उपधारा (1) के अनुसार राज्य सरकार के प्रसाद पर्यन्त तक रहेगा।

छत्तीसगढ़ के राज्यपाल के नाम से
तथा आदेशानुसार,

सही /—
(डी.डी.सिंह)
सचिव

छत्तीसगढ़ शासन
आदिम जाति तथा अनु.जाति विकास विभाग

Removal order dated 15-12-2023 :

छत्तीसगढ़ शासन
आदिम जाति तथा अनुसूचित जाति विकास विभाग
मंत्रालय,
महानदी भवन, नया रायपुर अटल नगर

—: आदेश :-

नवा रायपुर अटल नगर, दिनांक 15 दिसंबर 2023

क्रमांक/एफ 19-02/2020/25-1 (पार्ट) : विभागीय समसंख्यक आदेश दिनांक 16 जुलाई, 2021 द्वारा छत्तीसगढ़ राज्य अनुसूचित जनजाति आयोग में निम्नांकित अध्यक्ष एवं सदस्यों की नियुक्ति राज्य शासन के प्रसाद पर्यन्त तक की गई थी—

क्र	नाम	मनोनीत/नियुक्त पद का नाम
1	श्री भानुप्रताप सिंह	अध्यक्ष
2	श्री गणेश ध्रुव	सदस्य
3	श्री अमृत टोप्पो	सदस्य
4	श्रीमती अर्चना पोर्ते	सदस्य

2/ राज्य शासन द्वारा लिये गये निर्णय के अनुक्रम में उक्त नियुक्तियाँ तत्काल प्रभाव से समाप्त की जाती है।

छत्तीसगढ़ के राज्यपाल के नाम से
तथा आदेशानुसार,

सही /—
(सरोजनी टोप्पो)
अवर सचिव

छत्तीसगढ़ शासन
आ.जा. तथा अनु.जा.वि.वि.

11. From bare perusal of the said orders, it is crystal clear that the nomination of the petitioners has been made during pleasure of the State Government. Since the removal order has been passed in simplicitor, the question of affording opportunity of hearing also does not arise, as has been provided under Section 4(3) of the Adhiniyam, 2023.
12. It is the settled law that the principles of natural justice are required to be complied with having regard to the fact situation obtaining therein. It cannot be put in a straitjacket formula. It cannot be applied in a vacuum without reference to the relevant facts and circumstances of the case. The principle of natural justice, it is trite, is no unruly horse. When facts are admitted, affording opportunity of hearing would be an empty formality. Even the principle of estoppel will apply.
13. The petitioners do not hold any constitutional office and are not entitled to either any constitutional protection or any statutory protection in respect of their tenure. The exercise of doctrine of invocation in the facts and circumstances cannot be said to be arbitrary, irrational and unfair. The petitioners were not elected and even they were not appointed by any kind of selection. They were chosen by the earlier Government
14. It is the trite law that if an appointment has been made initially by nomination, there can be no violation of any provision of the Constitution in case the legislature authorised the State Government to terminate such appointment at its pleasure and to nominate new members in their place. It is because the nominated members do not have the will or authority. The action of the authorities neither offends

any Article of the Constitution nor the same is against any public policy or democratic norms enshrined in the Constitution. A nominated member, in *praesenti*, can also be removed by adopting the procedure during the period. Otherwise, he shall continue till his term is over. The plea of vested right is like building a castle in Spain. It has no legs to stand upon.

15. In *Om Narain Agrawal* (supra) the Supreme Court dealt with Section 9 of the Uttar Pradesh Municipalities Act, 1916, which provides for the doctrine of pleasure and has upheld its validity. It is noteworthy to mention here that in the case at hand, the petitioners have not challenged the validity of the provisions of the Adhiniyam, 2020.
16. In the matter of *B.P. Singhal v Union of India and Another*⁸ the Supreme Court while dealing with invocation of doctrine of pleasure in relation to Governors has held that the doctrine of pleasure can be invoked for valid reasons. It further held that the holder of an office under pleasure could be removed at any time, without notice, without assigning cause, and without there being a need for any cause. It is pertinent to mention here that the petitioners have not been subjected to any process of selection before their nomination.
17. Applying the well settled principles of law to the facts of the present case and for the reasons mentioned hereinabove, in my opinion, there is no illegality or irregularity in the impugned order (Annexure-P/2). The same is just and proper warranting no interference of this Court.

8 (2010) 6 SCC 331

18. *Ex-consequenti*, the petition, *sans substratum*, is liable to be and is hereby dismissed. There shall be no order as to cost(s).

Sd/-
(Bibhu Datta Guru)
Judge

Gowri

HEAD NOTE

Holder of an office 'under pleasure of the Government' could be removed at any time without notice, without assigning cause and without there being a need for any cause.

‘सरकार के प्रसाद पर्यंत’ अंतर्गत पद धारित करने वाले व्यक्ति को उसके पद से किसी भी समय बिना नोटिस के, बिना कारण समनुदेशित किए तथा हटाये जाने के कारण बताये जाने की आवश्यकता के बिना पदच्युत किया जा सकता है ।