



2025:CGHC:14487-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 211 of 2025

1 - Bhanu Pratap Singh S/o Shri Pitambar Singh Aged About 58 Years R/o Near Forest Barrier, Khairbaar, Ambikapur, District Sarguja (C.G.) Pin Code 497 001, 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 Code 492001

2 - Ganesh Dhruw S/o Shri Dharmu Singh Dhruw Aged About 50 Years R/o Govind, B-17, Nayapara Ward, Krishna Nagar, Bhatapara, District Balodabazar (C.G.) Pin Code 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 Code 492 001

3 - Amrit Lal Toppo S/o Shri Joseph Toppo Aged About 55 Years R/o St. Xavier School, Ambikapur, District Sarguja (C.G.) Pin Code 497 001. 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 Code 492 001

... Appellants

versus

1 - State of Chhattisgarh Through Secretary, General Administration Department, Government of Chhattisgarh, Mantralaya, Mahanadi

Bhawan, New Raipur, Atal Nagar, Raipur, District Raipur (C.G.) Pin Code 492 002

2 - Secretary General Administration Department, Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.) Pin Code 492002

3- Under Secretary General Administration Department, Government of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District Raipur (C.G.) Pin Code 492015

4 – Secretary, Scheduled Tribe And Scheduled Caste Development Department, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, Ata Nagar, Raipur, District Raipur (C.G.) Pin Code 492 015

5 - Under Secretary, Scheduled Tribe And Scheduled Caste Development Department, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur, Atal Nagar, Raipur District Raipur (C.G.) Pin Code 492 015

6 - Smt. Archana Porte W/o Shri Shankar Kanwar Aged About 51 Years R/o Ward No. 15, Girls College, Samta Nagar, Pendra Road, District Gaurela-Pendra-Marwahi (C.G.) Pin Code 495 117 Previously 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 Code 492 001, (Petitioner No. 4 In The Writ Petition Tendered Her Resignation Prior To The Passing Of The Impugned Order)

...Respondents

(Cause-title taken from Case Information System)

For Appellants	:	Shri K Rohan, Advocate
For Respondents/State	:	Shri Ranbir Singh Marhas, Additional Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Justice Ravindra Kumar Agrawal

Judgment on Board

Per Ramesh Sinha, Chief Justice

26.03.2025

1. Heard Shri K. Rohan, learned counsel for the appellants. Also heard Shri Ranbir Singh Marhas, learned Additional Advocate General, appearing for the State.
2. The present intra-court appeal has been filed by the appellants against the impugned order dated 29.01.2025, passed by the learned Single Judge in Writ Petition (C) No.206 of 2024, whereby the writ petition filed by the writ petitioners has been dismissed.
3. The appellants have filed the present appeal with the following prayers:-

“a) Call for the entire records pertaining to the present case.

*b) Hold that the action of the Respondent Authorities in issuance of the impugned Order dated 15.12.2023 (**Annexure-P/2** in the Writ Petition) whereby the State of Chhattisgarh has removed and terminated the services of the Appellants/Petitioners herein, is in utter and flagrant violation and non-compliance of the provisions of the*

Chhattisgarh Rajya Anusuchit Janjati Ayog (Sanshodhan) Adhiniyam, 2020 is bad in law.

c) Issue a Writ of Certiorari and setting aside the impugned Order dated 15.12.2023 (Annexure-P/2).

d) Set aside the impugned Order dated 29.01.2025 passed in Writ Petition (Civil) No.206/2024: Bhanu Pratap Singh & others Vs State of Chhattisgarh & others (Annexure-A/1).

e) Grant the cost of the petition to the Petitioner.

f) Grant any other relief as deemed fit and proper in the facts and circumstances of the case.”

4. The facts projected before the learned Single Judge by the appellants/writ petitioners are as follows:-

- 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.

- As per the provisions of Section 3 of the Adhiniyam, 2020, the State of Chhattisgarh vide order dated 16.07.2021 appointed the appellant No.1 as the Chairperson and appellants No.2 to 3 as Members of the Chhattisgarh Rajya Anusuchit Janjati Ayog. Thereafter, the appellants 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 appellants. 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/II/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.

- The appellants were under the inference that since their appointment was made exercising the powers conferred under Section 3 of the Adhinyam, 2020, the order dated 15.12.2023 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 appellants.
- According to the appellants, the provisions of Section 4 (3) of the Adhinyam, 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 Adhinyam, 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 appellants before terminating their

Service and, as such, the impugned order is bad in law, therefore, the same may be quashed.

5. The State, in their return, has submitted that the appointment of the writ petitioners/appellants was made only until the pleasure of the Government, and as per the decision taken by the State Government, the same can be cancelled. As per Section 4(1) of the Adhiniyam 2020, which was brought by Sansodhan Adhiniyam 2020, the incumbent shall hold the office during the pleasure of the State Government. The appointment order itself makes clear that their appointment was for a period during the pleasure of the State Government, and by referring to the same, the order of their removal is passed.
6. After hearing the parties, learned Single Judge has dismissed the writ petition filed by the petitioners holding that the holder of the office under pleasure could be removed at any time, without notice, without assigning cause, and without there being a need for any cause, as the post of Chairperson/member is a post under the pleasure of His Excellency, the Governor, which is under challenge in the present writ appeal.
7. Mr. K. Rohan, learned counsel for the appellants/writ petitioners would submit that statutory provisions providing a manner have to be followed in its letter and spirit and any deviation from the same

would result in unfettered discretion to the State Government, resulting in complete autonomy without any check and balance. He would also submit that although the appointment of the writ petitioners/appellants was up to the pleasure of the Government, the provisions of Section 4 of the Adhiniyam 2020 have to be followed. It is only because the regime has been changed the writ petitioners/appellants have been removed, and no opportunity of hearing has been provided to them before their removal. He would further submit that even if it assumed that the appointments of the writ petitioners/appellants is a political appointment subject to the pleasure of the Government, the doctrine of pleasure neither envisages bypassing the provisions of law nor gives any power to ignore the due process of law.

8. Learned counsel for the appellants vehemently harping upon the observation made in paragraphs-8 and 9 of the impugned order and would submit that the said observation in the above paragraphs has not been made while passing the impugned order, though the post of Chairperson/Member in the said Ayog, is governed by the doctrine of pleasure and such Chairperson and Members can be removed without notice or without assigning any cause. However, the observation made in paragraphs 8 and 9 of the impugned order is stigmatic. He would also submit that the observation made by the learned Single Judge and the reasoning

given in it for removal of the writ petitioners/writ appellants was not there in the impugned order, which was the subject matter of the writ petition. Therefore, the said observation made in the impugned judgment may be struck off.

- 9.** On the other hand, Mr. Ranbir Singh Marhas, learned Additional Advocate General, opposes the submissions made by the learned counsel for the appellants and submitted that the the order passed by the learned Single Judge is in accordance with the law and needs no interference. He further submits that the appointment of the appellants was for the period during the pleasure of the Government, which is mentioned in the appointment order itself. The appointment was cancelled without any stigma. The principles of natural justice have no application when the doctrine of pleasure is invoked. Therefore, the removal of the writ petitioners/appellants is rightly considered by the learned single judge and the writ appeal is liable to be dismissed.
- 10.** We have heard learned counsel for the parties and perused the material annexed with the writ petition as well as the present writ appeal.
- 11.** It is not in dispute between the parties that the appointment of the writ petitioners/appellants was based on the documents for the period of pleasure of the State Government. The appointment order

of the writ petitioner/appellants dated 16.07.2021 (Annexure P-7 of the writ petition) itself bears with the condition that their appointment is up to the pleasure of the State Government. The power of appointment includes the power of cancellation of appointment. The writ petitioners have been nominated/appointed by the discretion of the State Government without following the selection process and such nomination/appointment has to be treated as one under the pleasure of the Government and conferring no legal or fundamental right on the writ petitioners. There is no question of any violation of principles of natural justice in not affording any opportunity of hearing to the nominated/appointed persons before their removal nor the doctrine of pleasure put any stigma on the performance or character of the nominated/appointed members. The pleasure of the Government is in no way controlled by any of the provisions under the statute with which we are concerned for the present. There is nothing to suggest excluding from the operation of the doctrine of pleasure. Suffice it to say that the impugned order of the removal of the writ petitioners/appellants does not cast any stigma upon them therefore, there was no requirement to issue a notice or to afford any opportunity of hearing. Further, the provision of 4(1) of the Adhiniyam 2020 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”.

The decision to remove the writ petitioners/appellants is pursuant to the order dated 15-12-2023 issued by the General Administration Department to remove the political appointments.

- 12.** Learned counsel for the appellants/writ petitioners has also harped on the observation made in para 8 and 9 of the impugned order and submitted that the finding recorded by the learned Single Judge in para 8 and 9 are perverse and contrary to the record, and the same is not mentioned in the impugned order of removal dated 15.12.2023, nor it was pleaded by the State Government in their return. Even during their submission, they have not raised such submissions. Therefore, the observations made in para 8 and 9 of the impugned order dated 29.01.2025 passed by the learned Single Judge may be discarded. Since no reason has been furnished in the impugned order of removal dated 15.12.2023, the learned Single Judge ought not to make such an observation in the impugned order.
- 13.** From perusal of the documents and also from paragraphs 8 and 9 of the impugned order dated 29.01.2025, it is quite vivid that the observation made by the learned Single Judge in those paragraphs is not there in the impugned order of removal dated 15.12.2023 and it is also reiterated in the second part of paragraph 10 of the impugned order. When the impugned order does not reflect any

reasoning for the removal of Member/Chairman of the said Ayog, the learned Single Judge ought not to enter into reasoning, or to explain the same, which may create other issues in the subject matter.

14. Be that as it may, when the post of Chairperson and Member governs with the principle of the doctrine of pleasure, which inherently had the power to remove the Chairperson/Member from the post at any time, without any notice, without assigning cause, and without there being any need for any cause, which has been done in the present case vide order dated 15.12.2023.
15. The learned Single Judge, after adverting the entire facts and circumstances of the case, as well as the law laid down by the Hon'ble Supreme Court in the case of ***B.P. Singhal v. Union of India and Another, 2010 (6) SCC 331*** and ***Om Narain Agrawal and Others v. Nagar Palika, Shahjahanpur and Others, 1993 (2) SCC 242*** has held as under:-

“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** (*supra*), 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.

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

- 16.** After having perused the order impugned in the writ petition preferred before the learned Single Judge by the appellants/writ petitioners, the Court finds that the doctrine of pleasure has rightly been exercised by the State Government and cannot be said to be arbitrary, irrational or unfair as there was no requirement to give the reasoning for the removal as has been observed in para 8 and 9 of the order impugned passed by the learned Single Judge, which stands deleted, if it was not there in the order of removal dated 15.12.2023.
- 17.** Considering the matter in its entirety and after considering the submissions made by learned counsel appearing for the parties as also perusing the impugned order, we are of the considered opinion that the learned Single Judge has rightly passed the impugned order dismissing the writ petition of the appellants/writ petitioners as 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.
- 18.** In view of the foregoing discussions and the settled principles of law laid down by the Hon'ble Supreme Court in ***B.P. Singhal***

(supra) and ***Om Narain Agrawal*** (supra), this Court is of the opinion that no interference is warranted by this Court in this intra-Court appeal, which is liable to be and is hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu

Head Note

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.