

APHC010347612024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

Bench
Sr.Nos:-
3 to 6
[3483]

WRIT APPEAL No.684 of 2024
ALONG WITH
W.A.Nos.689, 690 and 691 of 2024

WRIT APPEAL No. 684 of 2024

Kosuri Radha ...Appellant

Vs.

The State of AP and others ...Respondents

Advocate for Appellant: Mr. G. Rama Gopal

Advocates for Respondents: Mr. D. Srinivas, Ld. Advocate General

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE RAVI CHEEMALAPATI**

DATE : 20.05.2025

PER DHIRAJ SINGH THAKUR, CJ:

Since common questions of fact and law arise in this set of appeals, we propose to deal with them by way of this common judgment and order.

Facts in Writ Appeal No.684 of 2024 are being referred to, for the sake of convenience.

2. The present Writ Appeal has been preferred against judgment and order dated 25.07.2024 passed in W.P.No.12327 of 2024. The learned single Judge while dismissing the writ petition filed by the petitioner – appellant

herein, followed the view taken by the learned single Judge in W.P.No.14987 of 2024.

3. Briefly stated the material facts are as under:

The petitioner came to be nominated as a Member of the General Body by the District Collector, Prakasam District to the District Livestock Development Association, Ongole, Prakasam District, which is a Society registered under the Societies Registration Act, 2001. Subsequently, it appears that she was elected as Chairperson of the Executive Committee of the said Association.

The petitioner claims that she was entitled to work as such Chairperson for a period of five years with effect from 04.09.2023 to 03.09.2028. The petitioner claims that by way of impugned proceedings dated 15.06.2024, the petitioner was directed to submit her resignation from the Membership of respondent No.4 Association and she challenged the same on the ground that the said proceedings were illegal and arbitrary as the District Collector had no such power to seek the resignation of the petitioner as the byelaws which governed the nomination of the petitioner did not vest any power in the District Collector to cancel or withdraw the nomination so made to the General Body of the Society.

4. The learned single Judge dismissed the petition by invoking the Doctrine of Pleasure. Reliance was placed upon the judgment of the Apex

Court in the case of **Om Narain Agarwal and others vs. Nagar Palika Shahjahanpur and others**¹ and **Krishna S/o. Bulaji Borate vs. State of Maharashtra and others**². Apart from this, reliance was also placed upon the judgment rendered in the case of **Cheviti Venkanna Yadav vs. State of Telangana**³.

The learned single Judge held that since the appointment of the petitioner was based on political considerations and since the removal did not carry with it, any stigma on the performance or character of the petitioner, principles of natural justice were not applicable and that the State Government would terminate the appointment at its discretion and designate new members to replace the earlier members.

5. Learned counsel for the appellant would submit that the view expressed by the learned single Judge was erroneous inasmuch as the principle governing the Doctrine of Pleasure had not been understood by the learned single Judge in its correct perspective. It was stated that the reliance placed by the learned single Judge on the judgments supra was inapt inasmuch as unlike the provisions of law, which were under consideration by the Apex Court in the aforementioned judgments, there was no power vested with any authority under any provision of law, much less the byelaws governing the functioning of respondent No.4 Association, which could authorize the

¹ (1993) 2 SCC 242

² (2001) 2 SCC 441

³ (2017) 1 SCC 283

Collector to seek removal by way of resignation from its earlier nomination to the General Body of respondent No.4 Association.

6. Learned Advocate General, Mr. D. Srinivas, appearing for respondents, on the other hand, reiterated the submissions made before the learned single Judge to state that since the nomination by the Collector was neither made under any Statute or Act and was merely made to a General Body of a Society, therefore, being not an elected Member, the Doctrine of Pleasure would certainly be attracted and that the petitioner would not have any vested right to remain as such member of the General Body and that the learned single Judge was right in invoking the Doctrine of Pleasure in the instant case.

7. Heard learned counsel for the parties.

8. It is not denied by the petitioner that the petitioner had been nominated as a Member to the General Body of respondent No.4 Society. It is also not denied that upon such nomination, the petitioner stood elected as Chairperson of the Executive Committee of the said Society and was to continue as such for a period of five years. However, the issue is whether on account of change of Government, the respondents were justified in invoking the Doctrine of Pleasure in the instant case.

9. Since reliance was placed by the learned Advocate General as also by the learned single Judge on the judgments referred to hereinabove, it would be worthwhile to understand the context in which the same were rendered.

In the case of **Om Narain Agarwal** (supra), the Apex Court was considering the issue with regard to removal of a nominated Member to the Shahjahanpur Municipal Board, in the light of the fourth provision to Section 9 of United Provinces Municipality Act, 1916. The Apex Court held that if the appointments made initially were by nomination based on political considerations, there could be no violation of any provisions of the Constitution 'in case a legislature authorizes the State Government to terminate such appointment at its pleasure and to nominate new members in their place.' What was held by the Apex Court was as under:

“11. ...In the cases before us, we are concerned with the removal of nominated members under the fourth proviso to Section 9 of the Act and we are not concerned with the removal as contained in Section 40 of the Act. The right to seek an election or to be elected or nominated to a statutory body, depends and arises under a statute. The initial nomination of the two women members itself depended on the pleasure and subjective satisfaction of the State Government. If such appointments made initially by nomination are based on political considerations, 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. The nominated members do not have the will or authority of any residents of the Municipal Board behind them as may be present in the case of an elected member. In case of an elected member, the legislature has provided the grounds in Section 40 of the Act under which the members could be removed. But so far as the nominated members are concerned, the Legislature in its wisdom has provided that they shall hold office during the pleasure of the Government. It has not been argued from the side of the respondents that the Legislature had no such power to legislate the fourth proviso. The attack is based on Articles 14 and 15 of the Constitution.”

Similarly, in **Krishna, S/o. Bulaji Borate**(supra) the Apex Court was considering the action of the State Government in removing the appellant from the Trust to which the appellant had been nominated by the State Government. Section 6 of the Nagpur Improvement Trust Act, 1936, enabled the Government to remove the trustees appointed under Section 4(1)(e) at the pleasure of the Government, even before the trustees concerned completed their tenure of five years. Sections 4(1)(e), 4(2), 6 and 10 of the Nagpur Improvement Trust Act, 1936 read as under:

“4. Constitution of Trust.

- (1) (e) four persons appointed under sub-section (2), of whom not less than two shall be non-officials residing within the limits of the area to which this Act applies;
- (2) The Chairman and the four persons referred to in clause (e) of sub-section (1) shall be appointed by the State Government by notification.

6. The term of office of Chairman or of any Trustee appointed under clause (e) of sub-section (1) of section 4 shall be five years, provided that, the Chairman or any Trustee may be removed from office by the State Government at any time before the completion of such term.

10. Removal of Trustees.

(1) The State Government may remove from the Trust any Trustees other than an ex officio Trustee who---

(a) refuses to act, or becomes incapable of acting as a Trustee, or absents himself without the permission of the Trust for more than three consecutive months from the meetings of the Trust or of any Committee of which he is a member and is unable to explain such absence to the satisfaction of the Trust, or

(b) is an undischarged insolvent or has compounded with his creditors, or

(c) has been sentenced by a Criminal Court to imprisonment for a term exceeding six months or to transportation, or has been ordered to find security for good behaviour under the Code of Criminal Procedure, such sentence or order not having subsequently being reversed or remitted or the offender pardoned, or

...

...

...

(2) The State Government may remove from the Trust a trustee who in its opinion has so flagrantly abused in any manner his position as a Trustee as to render his continuance as a Trustee detrimental to the public interest.

(3) Wherever the State Government proposes to take action under the foregoing provisions of this section, an opportunity of explanation shall be given to the Trustee concerned, and, when such action is taken the reasons therefor shall be placed on record."

The Apex Court held that the Doctrine of Pleasure was applicable considering the powers under Section 6 of the Act. It held that rights of trustees falling under Clause (e) of sub-section (1) of Section 4 were rights created under a statute and hence the same could be curtailed under the same statutes and if removed, a trustee cannot express a grievance that no opportunity was given to him of being heard or that the principles of natural justice were violated, it was held:

"7. ...Though Section 6 does not explicitly state that removal is at the pleasure of the Government but is implicit within its frame and texture, This is reinforced by the fact that the appointment under Clause (e) of sub-section (1) of Section 4 is by way of nomination. The submission is, it is significant when Section 6 specifies tenure of such trustee to be of five years it also confers power to curtail it at any time before the completion of such term. This later power of removal of such nominated Trustee, implicitly reveals it to fall under the doctrine of pleasure."

10. On perusal of the aforementioned judgments, it is clear that there were specific provisions either envisaging expressly that the nomination would be at the pleasure of the Government, as in the case of **Om Narain Agarwal** (supra) or an express provision to remove a nominated member, as in the

case of **Krishna, S/o. Bulaji Borate** (supra). In the present case, while the byelaws did envisage nomination by the Collector to the General Body of the Society, there was no power specifically envisaged as per the byelaws which could authorize the Collector to curtail the tenure prematurely of such nominated members.

11. While there is no doubt that the initial nomination of the petitioner was based on political considerations, yet for purposes of invoking the pleasure doctrine, there ought to have been a specific power vested in the Collector to terminate such an appointment, in the absence whereof, the said doctrine, in our opinion, could not have been invoked to justify the issuance of the order impugned in the writ petition. At the cost of repetition, it would be worthwhile to reproduce the relevant portion of the Om Narain Agarwal's case, which supports this view taken by us:

“11. ...If such appointments made initially by nomination are based on political considerations, 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.”

12. In the present case, in the absence of there being any specific power vested with the Government to remove a nominated Member which can be otherwise traced to a statute and in the absence of any such specific power being traced to the Government in terms of the byelaws, in our opinion, the Government could not have issued directions seeking the resignation or removal of the nominated members.

13. In our opinion, the view expressed by the learned single Judge invoking the Doctrine of Pleasure by placing reliance upon the judgments (supra) is unsustainable as the reference was inapt in the facts and circumstances of the case.

14. Be that as it may, we allow the present Writ Appeal. The judgment and order impugned is accordingly set aside and the order, dated 15.06.2024, passed by the District Collector, Prakasam District, is hereby quashed.

15. W.A.Nos.689, 690 and 691 of 2024, also stand allowed and the orders passed by the District Collectors therein are hereby quashed.

No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ.

RAVI CHEEMALAPATI, J.

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