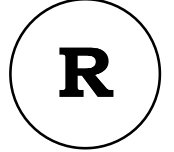
Reserved on : 21.11.2025
Pronounced on :25.11.2025

IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 25TH DAY OF NOVEMBER, 2025



BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.108099 OF 2025 (S - RES)

BETWEEN:

SUNIL
S/O. ANNAPPA SANK
AGED ABOUT 51 YEARS,
OCC. ADVOCATE / AGRICULTURE,
R/O. H. NO.CS3656/A/2/BC
SANK GALLI, ATHANI – 591 304
TALUK ATHANI, DISTRICT - BELAGAVI.

... PETITIONER

(BY SRI PRASHANT S. KADADEVAR, ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
REPRESENTED BY CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA,
BENGALURU – 560 001.

2 . THE DEPARTMENT OF LAW,

JUSTICE AND HUMAN RIGHTS
(ADMINISTRATIVE-2)
VIDHANA SOUDHA,
BENGALURU – 560 001
REPRESENTED BY ITS
UNDER SECRETARY.

3 . D.B.THAKKANNAVAR
AGED MAJOR,
OCC. ADVOCATE
R/O. SHREERAM NAGAR,
VIKRAMPUR, ATHANI – 591 304
DISTRICT BELAGAVI.

... RESPONDENTS

(BY SRI GANGADHAR J.M., AAG ALONG WITH
SMT.GIRIJA S.HIREMATH, AGA FOR R1 AND R2;
SRI GIRISH A. YADAWAD, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO 1) ISSUE WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE NOTIFICATION DATED 29.10.2025 BEARING NO.LAW-LD/583/2024 (BAG-2) PASSED BY THE RESPONDENT NO.2 (ANNEXURE-E) IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 21.11.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner, who had been entrusted with the Office of the Additional District Government Pleader, at XI Additional District and Session Court, Belagavi, Sitting at Athani, District Belagavi, knocks at the doors of this Court, to challenge the notification dated 29-10-2025, issued by the 2nd respondent, by which – within a breathless span of 24 hours, the appointment of the petitioner made on 28.10.2025, is rescinded, and the 3rd respondent is appointed to the said post.

2. Shorn of unnecessary details, facts in brief, are as follows:

On 06-07-2024, a long-standing demand for establishing a Courts of Sessions at Athani, finally crystallized into reality. With this establishment arose, the concomitant need for appointing an Additional District Government Pleader (hereinafter referred to as the 'Government Pleader' for short). Pending such appointment,

the Government placed the already serving Government Pleader on additional Charge on 19-09-2024.

3. Owing to the necessity of appointment of a regular Government Pleader, the petitioner, a practicing Advocate since 1999, finding himself eligible on all fours, tenders a representation 09-10-2024 bringing to the notice of the second respondent, of his experience and eligibility to be considered, for appointment as Additional District Government Pleader. Upon the representation submitted by the petitioner, it appears, correspondences emerge between the District Judge and the Department of Law and Justice of the Government of Karnataka for finalization of appointment. The series of communications between the two as aforesaid culminates in a notification dated 28-10-2025 appointing the petitioner as Government Pleader for a period of 3 years or until further orders, whichever would be earlier. The petitioner assumes charge and appears in several matters as a Government Pleader on the strength of his appointment on the very same day. When things stood thus, as a bolt from the blue, another Notification surfaces the next morning *i.e.,* on 29-10-2025, abruptly withdrawing his

appointment and substituting him with the 3rd respondent. It is this action that has compelled the present writ petition.

4. Heard Sri Prashant S. Kadadevar, learned counsel appearing for the petitioner, Sri Gangadhar J.M., learned Additional Advocate General along with Smt. Girija S.Hiremath, learned Additional Government Advocate appearing for respondent Nos.1 and 2 and Sri Girish A. Yadawad, learned counsel appearing for respondent No.3.

SUBMISSIONS:

PETITIONER:

5. The learned counsel for the petitioner, taking this Court through the documents appended to the petition, would seek to demonstrate that the 3rd respondent had not even filed his application. On the application/representation filed by the petitioner, the entire proceedings were drawn up. Drawing up of the proceedings, led to issuance of notification dated 28-10-2025. The 3rd respondent brings in political influence and gets the appointment of the petitioner withdrawn and gets a Notification issued appointing him as Additional District Government Pleader.

The learned counsel submits that the impugned action is on the face of it arbitrary and has to be annulled. The appointment of the petitioner had come about in accordance with law. It cannot be taken away illegally by the impugned Notification. He would submit that the only proceeding drawn was on the date on which the petitioner was appointed and the change of appointment was due to the *tippani* of the Minister. He would seek to place reliance upon plethora of judgments, all of which would bear consideration in the course of the order, *qua* their relevance.

RESPONDENTS:

THE STATE – ADDITIONAL ADVOCATE GENERAL:

6. The learned Additional Advocate General defending the impugned action would submit that there is a distinction between appointment under Rules 26 and 28 of the Karnataka Law Officers (Appointment and Conditions of Service) Rules, 1977 ('the Rules' for short). He would submit that the appointment of the Government Pleader is at the pleasure of the State as, at any time, it can be withdrawn. No right of the petitioner is taken away by the withdrawal of his appointment, since admittedly it is at the pleasure

of the State. He would seek to place reliance upon Rule 26 of the Rules, which directs that any person can be appointed whenever required by the Government and would also draws strength from Rule 28 of the Rules by contending that Additional District Government Pleaders and Assistant Government Pleaders are to be appointed at the pleasure of the Government whenever necessary. He would also seek to place reliance upon several judgments *qua,* its 'pleasure' term to contend that whoever comes at the pleasure power must be ready to go back on the pleasure door.

THE THIRD RESPONDENT:

7. The learned counsel appearing for the new appointee, the 3rd respondent would vehemently refute the submissions of the learned counsel for the petitioner in contending that his appointment was delayed by 24 hours and it is his proceeding that was taken to the logical conclusion for appointment. It cannot be said that the petitioner went through the selection process and therefore, it is an appointment that has tenure and the tenure cannot be curtailed. It is his submission that an appointment at the pleasure of the Government, renders no right to any person; it may

be the 3rd respondent or it may be the petitioner. He would submit that no fault can be found with the action of withdrawing the appointment of the petitioner and appointing the 3rd respondent.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The material facts are largely beyond dispute and the controversy narrows to a single imperative question "**does the impugned action withstand the constitutional prohibition against arbitrariness**".

10. Certain skeletal facts are necessary to be noticed to consider the said issue. As observed hereinabove, the Athani Court began to function on 06-07-2024. The need for a regular Additional District Government Pleader arose on establishment of the Court at Athani, elevating it to the Court of Sessions *albeit* the District Judge was sitting at Athani. The petitioner submits his application on 09-10-2024 itself. The application reads as follows:

"To,

Shri. H. K. Patil
The Hon'ble Cabinate Minister,
For Law and Parliamentary Affairs
And Tourism Departments State of Karnataka,
Vidhan Soudha Bangaluru.

Subject: Appointment for ADGP to XITH Addl. District and Session Court Belagavi Sitting At: Athani, Dist: Belagavi.

Respected Sir,

I **Shri. Sunil Annappa Sank Advocate Athani**, Dist : Belagavi submit this earnest appeal as under.

That Hon'ble High Court of Karnataka and Hon'ble Government of Karnataka was pleased to establish the **XIth Addl. District and Session Judge Court Athani and started on 06-07-2024.**

That the said Hon'ble Court established at Athani to give justice to the public litigants of Athani and Kagwad taluka at their door steps. **As the Hon'ble District Court Chikkodi and Belagavi were at 140 to 195 KM from the last villages of Athani and Kawad taluka. Hence for the same reason appointment of Additional District Govt. Pleader is indispensable. Therefore for time being by the order of your good office vide LAW-LAD/467/2024 dated : 19-09-2024 the additional charge to attend the cases before Hon'ble XIth Addl. District and Session Judge Court Athani is given to AGP Senior Civil Court Athani till further order.**

Therefore it is just and necessary to appoint ADGP to Hon'ble XIth Addl. District and Session Judge Court Athani.

That I am practicing advocate since 1999 to till this day at Athani before Hon'ble Prl. Senior Civil Judge, Addl. Senior Civil Judge and Prl. Civil Judge & JMFC, 1st Addl. to 4th Addl. Civil

& JMFC Courts Athani and Prl. Civil Judge and JMFC Court Kagwad, and Hon'ble VIIth Addl. District and Session Judge Court Chikkodi and Hon'ble **XIth Addl. District and Session Judge Court Athani.**

That I am having experience of practice in both Civil and Criminal all types. I have also experience of practice since 22 years before Hon'ble District and Sessions Court particularly before Hon'ble VIIth Addl. And Session Court Chikkodi and **XIth Addl. District and Session Judge Court Athani** till this day.

That I have also experienced of representing the Govt. cases in land acquisition cases as I was appointed as special Govt. Counsel for **UKP to Athani Civil cases by its order LAW- 126, LAG 2013 on 08-09-2014 for 3 years or till further orders**.

Due to said opportunity given to me I honestly defended the Government and became successful in dismissal of 08 bogus double petitions.

That I am practicing since last 25th years from the date of issuance of Sanad on 19-11-1999 from Karnataka Bar Council bearing my **Reg. No: KAR: 4832/1999**.

That I am interested to defend the Govt. of Karnataka before **XIth Addl. District and Session Judge Court Athani** for all type of cases with all integrity and with honesty.

I have 2 junior colleagues working with me. I am ready to abide all the rules, regulations and instructions present and future likely to be given by the Hon'ble Government of Karnataka time to time.

I have enclosed requisite document for justification of my this appeal.

Hence I earnestly appeal to your good selves that I may be appointed as a ADGP to XIth Addl. District and Session Judge Court Athani.

Hence the application.

Place: Athani

Date: 09-10-2024

Your's faithfully
Sd/-
Shri. Sunil A. Sank
Advocate, Athani."

(Emphasis added)

The application appended to it a certificate of practice, which reads as follows:

"**<u>CERTIFICATE</u>**

This is to certify that, **Shri. Sunil Annappa Sank**, he has been practicing as an Advocate, in the court of XIth Addl District and Session Court Belagavi, Sitting At : Athani, Prl. Senior Civil Judge, Addl. Senior Civil Judge And M.A.C.T Athani, and Prl. Civil Judge And J.M.F.C. And Addl. 1st, 2nd, 3rd, 4th and 5th Civil Judge and J.M.F.C. Athani. And he is member of Bar Association, Athani. He has been practicing from 21-11-1999 to till today. And his membership registration number 4832/1999, he is enrolled on 19-11-1999, in the Karnataka State Bar.

Hence this Certificate."

On the application made by the petitioner, the District Judge communicates to the Department of Law with regard to the necessity of appointment on 01-03-2025. The communication reads as follows:

"From,

The Prl. District & Sessions Judge
Belagavi.

To,

The Under Secretary to the Government.
Law. Justice & Human Rights Department
(Administrative-2).
Bengaluru.

Respected Sir

Sub: Submission of Information as called for in the matter of sanction of one post of Additional District Government Pleader to the XI Addl. District & Sessions Judge, Belagavi (to sit at Athani). Reg.

Ref: 1) Letter No: LAW-LCD/583/2024 dated 14.02.2025 of Government of Karnataka

2) Letter No: 179/2025 dated 01.03.2025 of XI Addl. District & Sessions Judge, Belagavi (to sit at Athani)

*****

With reference to the above subject and references, I am submitting herewith the following information in the matter of sanction of one post of Additional District Government Pleader to the XI Addl. District & Sessions Judge, Belagvi (to sit at Athani) as called for by the Government of Karnataka vide letter referred above at reference No: 1.

01) **Performance Metrics put in place for sanction/continuation** Not available

02) **Minimum No: of case to be handled by each pleader** 113 cases

03) ಹೊಸದಾಗಿ ಹುದ್ದೆಗಳನ್ನು ಸೃಜಿಸಲು ಸಹಮತಿ ಕೋರುತ್ತಿರುವ ನ್ಯಾಯಾಲಯಗಳಲ್ಲಿನ ಪ್ರಕರಣಗಳ ವಿವರ:
427 cases of all category in Civil nature.

Further, I hereby submit my opinion that, it is required to sanction of one post of Additional District Government Pleader to the XI Addl. District & Sessions Judge Court, Belagavi (to sit at Athani).

This is for your information and to take further needful.

Yours faithfully.
Sd/- 1.3.2025
(T.N. Inavally)
Prl. District & Sessions Judge.
Belagavi"

(Emphasis added)

This results in an appointment of the petitioner on 28-10-2025, as Additional District Government Pleader for a period of 3 years from the date he assumes charge. The appointment is under Rule 26 of the Rules. The Notification of appointment of the petitioner dated 28.10.2025, reads as follows:

"<u>ಅಧಿಸೂಚನೆ</u>

ಶ್ರೀ ಸುನೀಲ ಅಣ್ಣಪ್ಪಾ ಸಂಕ, ವಕೀಲರು, ನಂ .3656/A/2/BC, ಸಂಕ ಗಲ್ಲಿ, ಅಥಣಿ, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ ಇವರನ್ನು ಬೆಳಗಾವಿ ಜಿಲ್ಲೆಯ 11ನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಲಯ (ಸಿಟ್ಟಿಂಗ್ - ಅಥಣಿ) ಇಲ್ಲಿನ ಅವರ ಜಿಲ್ಲಾ ಸರ್ಕಾರಿ ವಕೀಲರ ಹುದ್ದೆಗೆ ಕರ್ನಾಟಕ ಕಾನೂನು ಅಧಿಕಾರಿಗಳ (ನೇಮಕಾತಿ ಮತ್ತು

ಸೇವಾ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, **1977**ರ ನಿಯಮ **26(2)**ರನ್ವಯ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಹುದ್ದೆಯ ಪ್ರಭಾರವನ್ನು ವಹಿಸಿಕೊಳ್ಳುವ ದಿನಾಂಕದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಮೂರು ವರ್ಷದ ಅವಧಿಗೆ ಅಥವಾ ಮುಂದಿನ ಆದೇಶದವರೆಗೆ ಇವೆರಡರಲ್ಲಿ ಯಾವುದು ಮೊದಲೋ ಅಲ್ಲಿಯವರೆಗೆ ನೇಮಿಸಲಾಗಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಸಹಿ/- 28/10/25
(ಆದಿನಾರಾಯಣ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
ಕಾನೂನು, ನ್ಯಾಯ ಮತ್ತು
ಮಾನವ ಹಕ್ಕುಗಳ ಇಲಾಖೆ (ಆಡಳಿತ-2)"

(Emphasis added)

The petitioner then begins to appear as Additional District Government Pleader in 4 to 5 cases on the said date. What comes out as a shocker or a bolt from the blue is within 24 hours, the appointment of the petitioner is withdrawn and the 3rd respondent is appointed. The Notification of appointing the 3rd respondent – the impugned notification dated 29.10.2025, reads as follows:

"ಅಧಿಸೂಚನೆ

ಶ್ರೀ ಸುನೀಲ ಅಣ್ಣಪ್ಪಾ, ಸಂಕ, ವಕೀಲರು, ನಂ. **3656/A/2/BC**, ಸಂಕ ಗಲ್ಲಿ, ಅಥಣಿ, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ ಇವರನ್ನು ಬೆಳಗಾವಿ ಜಿಲ್ಲೆಯ 11ನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಲಯ (ಸಿಟ್ಟಿಂಗ್- ಅಥಣಿ) ಇಲ್ಲಿನ ಅಪರ ಜಿಲ್ಲಾ ಸರ್ಕಾರಿ ವಕೀಲರ ಹುದ್ದೆಗೆ ಕರ್ನಾಟಕ ಕಾನೂನು ಅಧಿಕಾರಿಗಳ (ನೇಮಕಾತಿ ಮತ್ತು ಸೇವಾ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, **1977**ರ ನಿಯಮ **26(2)**ರನ್ವಯ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಹುದ್ದೆಯ ಪ್ರಭಾರವನ್ನು ವಹಿಸಿಕೊಳ್ಳುವ ದಿನಾಂಕದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಮೂರು ವರ್ಷದ

ಅವಧಿಗೆ ಅಥವಾ ಮುಂದಿನ ಆದೇಶದವರೆಗೆ ಇವೆರಡರಲ್ಲಿ ಯಾವುದು ಮೊದಲೋ ಅಲ್ಲಿಯವರೆಗೆ ನೇಮಿಸಿ ಹೊರಡಿಸಿರುವ ದಿನಾಂಕ: **28.10.2025**ರ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ. ಲಾ- ಎಲ್ ಎ ಡಿ **/583/2024** (ಭಾಗ **-2**)ನ್ನು ಹಿಂಪಡೆಯಲಾಗಿದೆ .

ಮುಂದುವರೆದು, ಶ್ರೀ ಡಿ. ಬಿ. ಠಕ್ಕಣ್ಣವರ, ವಕೀಲರು, ಶ್ರೀರಾಮ ನಗರ, ವಿಕ್ರಮಪುರ, ಅಥಣಿ ತಾಲ್ಲೂಕು **- 591304,** ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ ಇವರನ್ನು ಬೆಳಗಾವಿ ಜಿಲ್ಲೆಯ **11**ನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಲಯ (ಸಿಟ್ಟಿಂಗ್ ಅಥಣಿ) ಇಲ್ಲಿನ ಅವರ ಜಿಲ್ಲಾ ಸರ್ಕಾರಿ ವಕೀಲರ ಹುದ್ದೆಗೆ ಕರ್ನಾಟಕ ಕಾನೂನು ಅಧಿಕಾರಿಗಳ (ನೇಮಕಾತಿ ಮತ್ತು ಸೇವಾ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, **1977**ರ ನಿಯಮ **26(2)**ರನ್ವಯ ಪುದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಹುದ್ದೆಯ ಪ್ರಭಾರವನ್ನು ವಹಿಸಿಕೊಳ್ಳುವ ದಿನಾಂಕದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಮೂರು ವರ್ಷದ ಅವಧಿಗೆ ಅಥವಾ ಮುಂದಿನ ಆದೇಶದವರೆಗೆ ಇವೆರಡರಲ್ಲಿ ಯಾವುದು ಮೊದಲೋ ಅಲ್ಲಿಯವರೆಗೆ ನೇಮಿಸಲಾಗಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಸಹಿ/- 29/10/25
(ಆದಿನಾರಾಯಣ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
ಕಾನೂನು, ನ್ಯಾಯ ಮತ್ತು
ಮಾನವ ಹಕ್ಕುಗಳ ಇಲಾಖೆ (ಆಡಳಿತ-2)"

(Emphasis added)

Both these notifications refer to Rule 26 of the Rules. It is therefore, necessary to notice Rule 26 of the Rules. Rule 26 reads as follows:

"26. **Appointment of District Government Pleader, etc.**- (1) The number of posts of District Government Pleaders, Additional District Government Pleaders and Assistant Government Pleaders in the State and their particulars shall be as specified in Schedule VI.

(2) The Deputy Commissioner shall, whenever required by the Government, invite applications from eligible practising advocates of the place, for the post of District Government Pleaders, Additional District Government Pleaders and Assistant Government Pleaders specifying the date before which such application should be made and forward the applications so received to the District Judge along with his remarks about their suitability for appointment to the concerned post. On receipt of the same, the District Judge shall forward them to the Government in the Department of Law and Parliamentary Affairs appending his remarks regarding his suitability of each of them for the concerned post. The Government shall thereafter' make the appointments having regard to the remarks of District Judge and the Deputy Commissioner.

"(3) Notwithstanding anything contained in sub-rule-2, but subject to other provisions of these rules, the Government may in cases of urgency appoint in consultation with the concerned District Judge, any advocate as District Government Pleader or Additional District Government Pleader for a period not exceeding one year".

(Emphasis supplied)

Rule 26, under Chapter-VII of the said Rules deals with appointment of District Government Pleader. The duties are also enumerated under the Rules. Rule 28 specifically deals with Additional District Government Pleader. It reads as follows:

28. **Additional District Government Pleaders and Assistant Government Pleaders**. - **(1) The**

Government may, appoint in any place as many Additional District Government Pleaders and Assistant Government Pleaders as are considered necessary.

(2) An Additional District Government Pleader or an Assistant Government Pleader appointed to assist a District Government Pleader, shall work under the control and supervision of the District Government Pleader to whom he is attached. The distribution of work among the District Government Pleader and an Additional District Government Pleader or Assistant Government Pleader appointed to assist such District Government Pleader shall subject to any instructions by the Government be made by such Government Pleader.

(3) The duties of an Additional District Government Pleader or an Assistant Government Pleader shall ordinarily be restricted to the court or courts at the places for which he is appointed and he shall appear on behalf of-

(a) the Government or a Government officer in the court or courts at such places in all suits, appeals, and other civil proceedings to which Government or a Government officer is party in his official capacity:

Provided that the Deputy Commissioner or the District Judge concerned or the Government may direct the District Government Pleader to appear in any case in which his appearance is considered essential and in such case the Additional District Government Pleader or the Assistant Government Pleader, as the case may be, shall appear along with the District Government Pleader to assist him and act under his directions in all matters connected with such case.

(b) send in the first week of January, April, July and October every year a list of Government cases pending in the court for which he is appointed indicating therein the number of the cases and the names of parties thereto."

(Emphasis supplied)

While it is true that the appointments under Rule 26 are made at the pleasure of the Government, such pleasure is not unfettered, it is hemmed in by the golden thread of Article 14 of the Constitution of India, which sternly prohibits arbitrariness. The Constitution does not condone the State action that is whimsical, capricious or devoid of discernible reasoning. Jurisprudence is replete on the issue and this **welter** contains both the arbitrary actions being annulled, notwithstanding the doctrine of pleasure, and actions sustained on doctrine of pleasure. A Constitution Bench of the Apex Court in the case of **B.P. SINGHAL v. UNION OF INDIA**[1]**,** answers the questions that fell for consideration, as found in paragraph 11 therein and they read as follows:

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[1] (2010) 6 SCC 331

"Questions for consideration

11. The contentions raised give rise to the following questions:

(i) Whether the petition is maintainable?
(ii) What is the scope of "doctrine of pleasure"?
(iii) What is the position of a Governor under the Constitution?
(iv) Whether there are any express or implied limitations/restrictions upon the power under Article 156(1) of the Constitution of India?
(v) Whether the removal of the Governors in exercise of the doctrine of pleasure is open to judicial review?

We will consider each of these issues separately."

(Emphasis supplied)

The Apex Court formulates the scope of doctrine of pleasure to be a question to be answered *qua* the appointment of a Governor of a State. Answering the said issue, the Apex Court has held as follows:

"(ii) Scope of doctrine of pleasure

16. The pleasure doctrine has its origin in English law, with reference to the tenure of public servants under the Crown. In Dunn v. R. [(1896) 1 QB 116 : (1895-99) All ER Rep 907 (CA)] , the Court of Appeal referred to the old common law rule that a public servant under the British Crown had no tenure but held his position at the absolute discretion of the Crown. It was observed: (QB pp. 119-20)

> "… I take it that persons employed as the petitioner was in the service of the Crown, except in cases where there is some statutory provision for a higher tenure of office, are ordinarily engaged on the understanding that they hold their employment at the pleasure of the Crown. So I think that there must be imported into the contract for the employment of the petitioner, the term which is applicable to civil servants in general, namely, that the Crown may put an end to the employment at its pleasure. … It seems to me that it is the public interest which has led to the term which I have mentioned being imported into contracts for employment in the service of the Crown. The cases cited shew that, such employment being for the good of the public, it is essential for the public good that it should be capable of being determined at the pleasure of the Crown, except in certain exceptional cases where it has been deemed to be more for the public good that some restriction should be imposed on the power of the Crown to dismiss its servants."
>
> (emphasis supplied)

17. In Shenton v. Smith [1895 AC 229 (PC)], the Privy Council explained that the pleasure doctrine was a necessity because, the difficulty of dismissing those servants whose continuance in office was detrimental to the State would, if it were necessary to prove some offence to the satisfaction of a jury (or court) be such, as to seriously impede the working of the public service.

18. A Constitution Bench of this Court in Union of India v. Tulsiram Patel [(1985) 3 SCC 398 : 1985 SCC (L&S) 672] explained the origin of the doctrine thus: (SCC p. 425, para 8)

> "8. … In England, except where otherwise provided by statute, all public officers and servants of the Crown hold their appointments at the pleasure of the Crown or durante bene placito ('during good pleasure' or 'during the pleasure of the appointor') as opposed to an office held dum bene se gesserit ('during good conduct'), also called quadiu se bene gesserit ('as long as he shall behave himself well'). When a person holds office during the pleasure of the Crown, his appointment can be terminated at any time without assigning cause. The exercise of pleasure by the Crown can, however,

be restricted by legislation enacted by Parliament because in the United Kingdom Parliament is sovereign…."

(emphasis supplied)

19. In State of Bihar v. Abdul Majid [AIR 1954 SC 245 : 1954 SCR 786] , another Constitution Bench explained the doctrine of pleasure thus: (AIR p. 250, para 13)

> "13. The rule that a civil servant holds office at the pleasure of the Crown has its origin in the Latin phrase durante bene placito (during pleasure) meaning that the tenure of office of a civil servant, except where it is otherwise provided by statute, can be terminated at any time without cause assigned. The true scope and effect of this expression is that even if a special contract has been made with the civil servant the Crown is not bound thereby. In other words, civil servants are liable to dismissal without notice and there is no right of action for wrongful dismissal, that is, that they cannot claim damages for premature termination of their services."

20. H.M. Seervai, in his treatise Constitutional Law of India (4th Edn., Vol. 3, pp. 2989-90) explains this English Crown's power to dismiss at pleasure in the following terms:

> "27.4. … In a contract for service under the Crown, civil as well as military, there is, except in certain cases where it is otherwise provided by law, imported into the contract a condition that the Crown has the power to dismiss at pleasure. … Where the general rule prevails, the Crown is not bound to show good cause for dismissal, and if a servant has a grievance that he has been dismissed unjustly, his remedy is not by a law suit but by an appeal of an official or political kind. … If any authority representing the Crown were to exclude the power of the Crown to dismiss at pleasure by express stipulation, that would be a violation of public policy and the stipulation cannot derogate from the power of the Crown to dismiss at pleasure, and this would apply to a stipulation that the service was to be terminated by a notice of a specified period of time. Where, however, the law authorises the making of a fixed term contract, or subjects the pleasure of the Crown to certain restrictions, the pleasure is pro tanto curtailed and effect must be given to such law."

21. Black's Law Dictionary defines "pleasure appointment" as the assignment of someone to employment that can be taken away at any time, with no requirement for notice or hearing.

22. There is a distinction between the doctrine of pleasure as it existed in a feudal set-up and the doctrine of pleasure in a democracy governed by the rule of law. In a nineteenth century feudal set-up unfettered power and discretion of the Crown was not an alien concept. However, in a democracy governed by rule of law, where arbitrariness in any form is eschewed, no Government or authority has the right to do what it pleases. The doctrine of pleasure does not mean a licence to act arbitrarily, capriciously or whimsically. It is presumed that discretionary powers conferred in absolute and unfettered terms on any public authority will necessarily and obviously be exercised reasonably and for the public good.

23. The following classic statement from Administrative Law (H.W.R. Wade & C.F. Forsyth, 9th Edn., pp. 354-55) is relevant in this context:

> "The common theme of all the authorities so far mentioned is that the notion of absolute or unfettered discretion is rejected. Statutory power conferred for public purposes is conferred as it were upon trust, not absolutely—that is to say, it can validly be used only in the right and proper way which Parliament when conferring it is presumed to have intended. Although the Crown's lawyers have argued in numerous cases that unrestricted permissive language confers unfettered discretion, the truth is that, in a system based on the rule of law, unfettered governmental discretion is a contradiction in terms. The real question is whether the discretion is wide or narrow, and where the legal line is to bedrawn. For this purpose everything depends upon the true intent and meaning of the empowering Act.
>
> The powers of public authorities are therefore essentially different from those of private persons. A man making his will may, subject to any rights of his dependants, dispose of his property just as he may wish. He may act out of malice or a spirit of revenge, but in law this does not affect his exercise of his power. In the same way a private person has an absolute power to allow whom he likes to use his land, to release a debtor, or, where the law permits, to evict a

> tenant, regardless of his motives. This is unfettered discretion. But a public authority may do none of these things unless it acts reasonably and in good faith and upon lawful and relevant grounds of public interest. … The whole conception of unfettered discretion is inappropriate to a public authority, which possesses powers solely in order that it may use them for the public good.
>
> There is nothing paradoxical in the imposition of such legal limits. It would indeed be paradoxical if they were not imposed."
>
> (emphasis supplied)

24. It is of some relevance to note that the "doctrine of pleasure" in its absolute unrestricted application does not exist in India. The said doctrine is severely curtailed in the case of government employment, as will be evident from clause (2) of Article 310 and clauses (1) and (2) of Article 311. Even in regard to cases falling within the proviso to clause (2) of Article 311, the application of the doctrine is not unrestricted, but moderately restricted in the sense that the circumstances mentioned therein should exist for its operation. The Canadian Supreme Court in Wells v. Newfoundland [(1999) 3 SCR 199 : (1999) 177 DL 4th 73 (Can SC)] has concluded that "at pleasure" doctrine is no longer justifiable in the context of modern employment relationship.

25. In Abdul Majid [AIR 1954 SC 245 : 1954 SCR 786] , this Court considered the scope of the doctrine of pleasure, when examining whether the rule of English law that a civil servant cannot maintain a suit against the State or against the Crown for the recovery of arrears of salary as he held office during the pleasure of the Crown, applied in India. This Court held that the English principle did not apply in India. This Court observed: (AIR pp. 249-50, paras 11-12)

> "11. It was suggested that the true view to take is that when the statute says that the office is to be held at pleasure, it means 'at pleasure', and no rules or regulations can alter or modify that; nor can Section 60 of the Code of Civil Procedure, enacted by a subordinate legislature be used to construe an Act of a superior legislature. It was further suggested that some meaning must be given to the words 'holds office during His Majesty's pleasure' as these words cannot be ignored and that they bear the meaning given to

> them by the Privy Council in I.M. Lall case [High Commr. for India v. I.M. Lall, (1947-48) 75 IA 225] .
>
> 12. In our judgment, these suggestions are based on a misconception of the scope of this expression. The expression concerns itself with the tenure of office of the civil servant and it is not implicit in it that a civil servant serves the Crown 'ex gratia' or that his salary is in the nature of a bounty. It has again no relation or connection with the question whether an action can be filed to recover arrears of salary against the Crown. The origin of the two rules is different and they operate on two different fields."
>
> (emphasis supplied)

This shows the "absoluteness" attached to the words "at pleasure" is in regard to tenure of the office and does not affect any constitutional or statutory restrictions/limitations which may apply.

26. The Constitution refers to offices held during the pleasure of the President (without restrictions), offices held during the pleasure of the President (with restrictions) and also appointments to which the said doctrine is not applicable. The articles in the Constitution of India which refer to the holding of office during the pleasure of the President without any restrictions or limitations are Article 75(2) relating to Ministers, Article 76(4) relating to the Attorney General and Article 156(1) relating to Governors. Similarly Articles 164(1) and 165(3) provides that the Ministers (in the States) and Advocate General for the State shall hold office during the pleasure of the Governor.

27. Article 310 read with Article 311 provides an example of the application of "at pleasure" doctrine subject to restrictions. Clause (1) of Article 310 relates to the tenure of office of persons serving the Union or a State, being subject to doctrine of pleasure. However, clause (2) of Article 310 and Article 311 restricts the operation of the "at pleasure" doctrine contained in Article 310(1). For convenience, we extract below clause (1) of Article 310 referring to pleasure doctrine and clause (2) of Article 311 containing the restriction on the pleasure doctrine:

> "310. Tenure of office of persons serving the Union or a State.—(1) Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor of the State.
>
> ***
>
> 311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.—(1) ***
>
> (2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges."

28. This Court in Parshotam Lal Dhingra v. Union of India [AIR 1958 SC 36], referred to the qualifications on the pleasure doctrine under Article 310: (AIR p. 41, para 9)

> "9. … Subject to these exceptions our Constitution, by Article 310(1), has adopted the English common law rule that public servants hold office during the pleasure of the President or Governor, as the case may be and has, by Article 311, imposed two qualifications on the exercise of such pleasure. Though the two qualifications are set out in a separate article, they quite clearly restrict the operation of the rule embodied in Article 310(1). In other words the provisions of Article 311 operate as a proviso to Article 310(1)."

29. Again, in Moti Ram Deka v. North East Frontier Railway [AIR 1964 SC 600], this Court referred to the qualifications to which pleasure doctrine was subjected in the case of government servants, as follows: (AIR p. 600)

> "The rule of English law pithily expressed in the Latin phrase durante bene placito ('during pleasure') has not been fully adopted either by Section 240 of the Government of India Act, 1935 or by Article 310(1) of the Constitution. The pleasure of the President is clearly controlled by the provisions of Article 311, and so, the field that is covered by

> Article 311 on a fair and reasonable construction of the relevant words used in that article, would be excluded from the operation of the absolute doctrine of pleasure. The pleasure of the President would still be there, but it has to be exercised in accordance with the requirements of Article 311."

30. The Constitution of India also refers to other offices whose holders do not hold office during the pleasure of the President or any other authority. They are: the President under Article 56; Judges of the Supreme Court under Article 124; the Comptroller and Auditor General of India under Article 148; High Court Judges under Article 218; and Election Commissioners under Article 324 of the Constitution of India. In the case of these constitutional functionaries, it is specifically provided that they shall not be removed from office except by impeachment, as provided in the respective provisions.

31. The Constitution of India thus provides for three different types of tenure: (i) those who hold office during the pleasure of the President (or the Governor); (ii) those who hold office during the pleasure of the President (or the Governor), subject to restrictions; (iii) those who hold office for specified terms with immunity against removal, except by impeachment, who are not subject to the doctrine of pleasure.

32. The Constituent Assembly Debates clearly show that after elaborate discussions, varying levels of protection against removal were adopted in relation to different kinds of offices. We may conveniently enumerate them: (i) Offices to which the doctrine of pleasure applied absolutely without any restrictions (Ministers, Governors, Attorney General and Advocate General); (ii) Offices to which the doctrine of pleasure applied with restrictions (Members of defence services, Members of civil services of the Union, Member of an All India service, holders of posts connected with defence or any civil post under the Union, Member of a civil service of a State and holders of civil posts under the State); and (iii) Offices to which the doctrine of pleasure does not apply at all (President, Judges of the Supreme Court, the Comptroller and Auditor General of India, Judges of the High Courts, and Election Commissioners). Having regard to the constitutional scheme, it is not possible to mix up

or extend the type of protection against removal, granted to one category of offices, to another category.

33. The doctrine of pleasure as originally envisaged in England was a prerogative power which was unfettered. It meant 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. But where the rule of law prevails, there is nothing like unfettered discretion or unaccountable action. The degree of need for reason may vary. The degree of scrutiny during judicial review may vary. But the need for reason exists. As a result when the Constitution of India provides that some offices will be held during the pleasure of the President, without any express limitations or restrictions, it should however necessarily be read as being subject to the "fundamentals of constitutionalism". Therefore in a constitutional set-up, when an office is held during the pleasure of any authority, and if no limitations or restrictions are placed on the "at pleasure" doctrine, it means that the holder of the office can be removed by the authority at whose pleasure he holds office, at any time, without notice and without assigning any cause.

34. The doctrine of pleasure, however, is not a licence to act with unfettered discretion to act arbitrarily, whimsically, or capriciously. It does not dispense with the need for a cause for withdrawal of the pleasure. In other words, "at pleasure" doctrine enables the removal of a person holding office at the pleasure of an authority, summarily, without any obligation to give any notice or hearing to the person removed, and without any obligation to assign any reasons or disclose any cause for the removal, or withdrawal of pleasure. The withdrawal of pleasure cannot be at the sweet will, whim and fancy of the authority, but can only be for valid reasons."

(Emphasis supplied)

The Apex Court holds that doctrine of pleasure, however, is not a license to act with unfettered discretion to act arbitrarily, whimsically or capriciously. The said judgment has been followed by a Division Bench of this Court in **B.K. UDAY KUMAR v. STATE OF KARNATAKA**[2]. The Division Bench considering nomination of Director in KPTCL holds as follows:

> "**8.** Firstly, we must advert to the second ground on which the writ petition was allowed. For that purpose it is necessary to refer to the Articles of Association of BESCOM. What is material is clause (b) of Article-74 which reads thus:
>
> > "(b) So long the entire paid up share capital in the Company is held by the Government of Karnataka or by the Central Government or by the Government of Karnataka and the Central Government, or by a subsidiary of a wholly owned Government company, the Government of Karnataka shall have the right to nominate and appoint one or more of the Directors to the Office of the Chairman of the Board of directors or Managing Director or Whole Time Directors of the Company for such term and on such remuneration and/or allowance as it may think fit and may at any time remove him/them from office and appoint another/others in his/their place(s)":
>
> **9.** Thus, it provides that the Government of Karnataka shall have the right to nominate and appoint one or more Directors to the office of the Chairman of the Board of Directors or the Managing Director or fulltime Director of the company and may, at any time, remove them from the office and appoint other persons in their places. It is this power which was exercised by the State Government to remove the 3rd respondent-petitioner from the post of the Director (Technical) BESCOM and to appoint the appellant to the said post. Therefore, we will have to consider the law laid down by

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the Apex Court on the doctrine of pleasure to decide this question arising in this appeal.

10. A proposal was prepared by the BESCOM. Paragraph 26 of the proposal was for appointment of the 3rd respondent as the Managing Director of KAVIKA and paragraph-27 of the proposal was for appointment of the appellant as the Director (Technical) BESCOM. The English translation of the remarks/order of the Hon'ble Chief Minister reads thus:

"Para No. 26 and 27 are approved".

11. There is no serious dispute that while according approval, in exercise of doctrine of pleasure by invoking clause (b) of Article 74, no reasons were recorded by the Hon'ble Chief Minister. Even the proposals did not contain any reasons. The main contention is that the appointment of the 3rd respondent as the Director (Technical) BESCOM was at the pleasure of the Government which could be cancelled anytime. It is, therefore, necessary to refer to the decision of the Apex Court in the case of B.P. Singhal (supra). The issue before the Apex Court was concerning appointment of the Hon'ble Governor. In paragraph 16 onwards, the Apex Court referred to the law relating to the doctrine of pleasure. Thereafter, the Apex Court distinguished the doctrine of pleasure, as prevailing in England and as prevailing in India. In paragraph 22, the Apex Court held thus:

> **"22. There is a distinction between the doctrine of pleasure as it existed in a feudal set-up and the doctrine of pleasure in a democracy governed by rule of law. In a nineteenth century feudal set-up unfettered power and discretion of the Crown was not an alien concept. However, in a democracy governed by rule of law, where arbitrariness in any form is eschewed, no Government or Authority has the right to do what it pleases. The doctrine of pleasure does not mean a licence to act arbitrarily, capriciously or whimsically. It is presumed that discretionary powers conferred in absolute and unfettered terms on any public authority will necessarily and obviously be exercised reasonably and for the public good".**
>
> **(emphasis supplied)**

12. In paragraph 23, the Apex Court relied upon the well known classic treatise on Administrative Law by Mr. H.W.R. Wade and C.F. Forsyth. Then, in paragraph 24, the Apex Court held thus:

> "24. It is of some relevance to note that the "doctrine of pleasure" in its absolute unrestricted application does not exist in India. The said doctrine is severely curtailed in the case of government employment, as will be evident from clause (2) of Article 310 and clauses (1) and (2) of Article 311. Even in regard to cases falling within the proviso to clause (2) of Article 311, the application of the doctrine is not unrestricted, but moderately restricted in the sense that the circumstances mentioned therein should exist for its operation. The Canadian Supreme Court in Wells v. Newfoundland [1999 (177) DL (4th) 73(CanSC)] has concluded that "at pleasure" doctrine is no longer justifiable in the context of modern employment relationship".

(emphasis supplied)

13. The sum and substance of what Is held by the Apex Court is that the decision of the Government by invoking the doctrine of pleasure must be tor good and compelling reasons and it cannot be at the sweet will, whim and fancy of the State Government, but it can only be for valid reasons and the power referable to doctrine of pleasure can be used reasonably and only for public good.

14. Now coming back to the facts of the present case, one situation can be that the proposal contains valid reasons and the Hon'ble Chief Minister approves the reasons. To make the exercise lawful, the file must show application of mind by the Hon'ble the Chief Minister. The other contingency can be that even the proposal contains no reasons, but the order of the Hon'ble Chief Minister reflects the reasons. In this case, both the things are absent. Hence, it is a case of arbitrary exercise of the so-called doctrine of pleasure, which is not permissible in law. In fact it amounts to use of doctrine of pleasure at the whims and fancies of the State. Therefore, on this ground, we are inclined to hold that the view taken by the learned Single Judge is absolutely correct.

> **15.** As far as the first ground regarding violation of the provisions of the said Act of 2013 is concerned, we have carefully perused the memorandum of writ petition filed by the 3rd respondent. There is absolutely no factual foundation for the said contention in writ petition. There is not even a contention raised that before the 7th August, 2019, the appellant could not have assumed the charge of the post of the Director (Technical) BESCOM. The fact that the charge that was taken over by the appellant on 23rd July, 2019 is suppressed. There are grounds pleaded in support of the challenge in the petition only in paragraphs 9 to 12 and none of the said paragraphs even refers to violation of provisions of the said Act of 2013. The findings recorded by the learned Single Judge regarding violation of the said Act of 2013 are based on the documents produced before the learned Single Judge. Violation of provisions of the said Act of 2013 is not merely a legal issue but it is based on the facts. If the learned Single Judge wanted to go into the said issue, he could have permitted the 3rd respondent to amend the writ petition so that, the appellant and the BESCOM could have dealt with the factual details. Only on this ground, the said finding of the learned Single Judge, insofar as it relates to violation of the said Act of 2013 is concerned, cannot be sustained.
>
> **16.** According to us, one modification is necessary to the impugned order. After setting aside the order of the Hon'ble Chief Minister on the ground that there are no valid reasons recorded for exercise of doctrine of pleasure, the learned Single Judge ought to have directed the authorities to place the proposals submitted by the BESCOM before the Hon'ble Chief Minister for his decision, so that one way or the other, a decision could have been taken by the Hon'ble Chief Minister in accordance with law."
>
> (Emphasis supplied)

The Division Bench was following the earlier Division Bench judgment of the High Court of Bombay in **DNYANESHWAR**

DIGAMBER KAMBLE v. STATE OF MAHARASHTRA[3]. The Division Bench in the said judgment has held as follows:

> **"8.** Now, we come to the decision of the Apex Court in the case of B.P. Singhal. In Writ Petition No. 326 of 2015 and other connected matters decided by this Court on 8th May, 2015 to which one of us (A.S. Oka, J.) was a party, this Court has considered a case where the Chairman and Members of the Maharashtra State Road Transport Corporation were removed by the State Government by invoking the doctrine of pleasure. It may be that on facts, the Apex Court in the case of B.P. Singhal was considering the case of a Constitutional post. However, what is material is the ratio of the decision. This Court in Writ Petition No. 326 of 2015 and other connected petitions has considered the law laid down by the Apex Court in paragraphs 22, 23 and 34 of the decision in the case of B.P. Singhal. Paragraphs 19 to 21 of the decision of this Court in Writ Petition No. 326 of 2015 read thus:—
>
>> "19. As far as the doctrine of pleasure is concerned, it will be necessary to make a reference to the decision of the Constitution Bench of the Apex Court in the case of the B.P. Singhal (supra). In the said decision, the Apex Court has considered the scope of the doctrine of pleasure in the light of the provisions of the Constitution of India. In paragraph 22, the Apex Court has made a distinction between the doctrine of pleasure in a feudal set up and the doctrine of pleasure in a democracy governed by the Rule of law. Paragraph 22 of the decision of the Apex Court reads thus:
>>
>> "22. There is a distinction between the doctrine of pleasure as it existed in a feudal set-up and the doctrine of pleasure in a democracy governed by the rule of law. In a nineteenth century feudal set-up unfettered power and discretion of the Crown was not an alien concept. However, in a democracy governed by rule of law, where arbitrariness in any form is eschewed, no Government or authority has the right to do what it pleases. **The doctrine of pleasure does not mean a licence to act arbitrarily, capriciously or whimsically. It is presumed that discretionary powers**

[3] (2016) 1 Mah LJ 602

conferred in absolute and unfettered terms on any public authority will necessarily and obviously be exercised reasonably and for the public good."

(emphasis added)

20. Thereafter in paragraph 23, the Apex Court relied upon a classic statement from the well known commentary on the Administrative Law by H.W.R. Wade. The said paragraph reads thus: "23. The following classic statement from Administrative Law (H.W.R. Wade and C.F. Forsyth, 9th Edn., pp. 354-55) is relevant in this context: "The common theme of all the authorities so far mentioned is that the notion of absolute or unfettered discretion is rejected. Statutory power conferred for public purposes is conferred as it were upon trust, not absolutely—that is to say, it can validly be used only in the right and proper way which Parliament when conferring it is presumed to have intended. Although the Crown's lawyers have argued in numerous cases that unrestricted permissive language confers unfettered discretion, the truth is that, in a system based on the rule of law, unfettered governmental discretion is a contradiction in terms. The real question is whether the discretion is wide or narrow, and where the legal line is to be drawn. For this purpose everything depends upon the true intent and meaning of the empowering Act. The powers of public authorities are therefore essentially different from those of private persons. A man making his Will may, subject to any rights of his dependants, dispose of his property just as he may wish. He may act out of malice or a spirit of revenge, but in law this does not affect his exercise of his power. In the same way a private person has an absolute power to allow whom he likes to use his land, to release a debtor, or, where the law permits, to evict a tenant, regardless of his motives. This is unfettered discretion. But a public authority may do none of these things unless it acts reasonably and in good faith and upon lawful and relevant grounds of public interest…. The whole conception of unfettered discretion is inappropriate to a public authority, which possesses powers solely in order that it may use them for the public good. There is nothing paradoxical in the imposition of such legal limits. It would indeed be paradoxical if they were not imposed."

21. In paragraph 24 Apex Court held that the doctrine of pleasure in its absolute unrestricted

application does not exists in India. Ultimately in paragraph 34 Apex Court held thus:

> "34. The doctrine of pleasure, however, is not a licence to act with unfettered discretion to act arbitrarily, whimsically, or capriciously. It does not dispense with the need for a cause for withdrawal of the pleasure. In other words, "at pleasure" doctrine enables the removal of a person holding office at the pleasure of an authority, summarily, without any obligation to give any notice or hearing to the person removed, and without any obligation to assign any reasons or disclose any cause for the removal, or withdrawal of pleasure. **The withdrawal of pleasure cannot be at the sweet will, whim and fancy of the authority, but can only be for valid reasons.**
>
> (emphasis added)

9. After considering the law laid down by the Apex Court in paragraph 22, this Court has held thus:—

> "Therefore, the law laid down by the Apex Court is that the withdrawal of pleasure cannot be at the fancy of the State Government. It can be only for valid reasons. In paragraph 22 of the decision, the Apex Court clearly held that the said power can be used reasonably and only for public good."

10. Thus, the law laid down by the Apex Court is that the withdrawal of pleasure cannot be at the sweet will, whim and fancy of the State Government and it can only be for valid reasons. Moreover, the power of withdrawal of pleasure can be used reasonably and only for public good. We must note here that though the decision of this Court in Writ Petition No. 326 of 2015 has been challenged by the State Government before the Apex Court, admittedly there is no ad-interim relief granted by the Apex Court.

11. Going back to the facts of the case, it is the specific stand of the State Government that for passing the impugned order, the doctrine of pleasure has been invoked. As held earlier, in the noting dated 18th November, 2014 as well as in the affidavit, no reason has been set out by the State Government for removing the petitioner. It is true that the order of appointment records that the tenure of the post will be for three years or till further orders, whichever is earlier. When the

admitted position is that the removal of the petitioner is on account of withdrawal of pleasure, the law laid down by the Apex Court will clearly apply to the facts of the case. We may note that in paragraph 34 of the judgment in the case of B.P. Singhal, the Apex Court held that the doctrine of pleasure in its absolute unrestricted application does not exist in India. Therefore, the petition must succeed and we pass the following order:—

(i) The impugned order dated 12th December, 2014 is hereby quashed and set aside;
(ii) We make it clear that the judgment and order will not preclude the State Government or the Hon'ble Governor from taking appropriate action of removal of the petitioner in accordance with law;
(iii) We are informed that regular appointment of the Chairman of the third respondent has not been made and only a charge has been given to the Secretary of the Social Justice Department;
(iv) We grant time of two months to the State Government to restore the charge of the post of the Chairman to the petitioner;
(v) The petition is allowed in the above terms. There will be no order as to costs."

Long before the judgment in the case of **B.K. UDAY KUMAR** (*supra*), a co-ordinate Bench of this Court in **K.C. SHANKARE GOWDA v. THE STATE OF KARNATAKA**[4] has held as follows:

"**12.** From the amendment as made, it is seen that the category of the nominees in (i) to (iv) of 'Other members' remains to be the same but only the nominating authority is substituted with 'Government' instead of 'Chancellor' as it existed earlier which is clear from the words for which emphasis is supplied. Sub-Section (3) which existed in the original Section 27 and continues to exist after the amendment also, which provides that the term of office of the members of the Board other than Ex-officio members shall be three years. This would

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mean that the 'Other Members' who were nominated by the Chancellor were assured the term of three years and the curtailment at pleasure is not indicated. As such the right has vested with such of those members who were nominated, to hold office as nominated members for a period of three years from the date of nomination unless the contingencies for removal as provided under sub-Section (7) to Section 27 had arisen and the procedure contemplated was followed.

13. The Notification dated 26.06.2014 under which the subject nomination was initially made is also for a period of three years by specifying the starting date for computation of the period of three years as 05.07.2014. Hence, in the background of the legal position analysed above if the instant facts are taken note, a right has vested in the persons nominated under the Notification dated 26.06.2014 under the substantive provision contained in the Act to remain on the Board for a period of three years. The amendment as has been made is only to substitute the name of the nominating authority from 'Chancellor' to that of the 'Government', which right is to be exercised prospectively when the nominations are to be made to the vacant positions in the Board of Management from the 'Other Members' category. Neither the status nor the qualification of the members to be nominated has been changed by the amendment so as to effect the existing right.

14. Sri. V. Lakshminarayana, Learned Senior Counsel, despite the said position, in order to contend that a nominated member will hold office only during the pleasure of the nominating authority and cannot claim to continue in office when the pleasure is withdrawn, has relied on the decision of this Court in the case of T. Krishnappa v. State of Karnataka [(2000) 7 Kant LJ 132] . In that light, it is contended that by the Notification dated 13.01.2016 the nomination of different persons has been made in substitution of the earlier nominees, by which the pleasure exercised earlier is withdrawn. In that view, it is contended that the subsequent Notification/Order dated 21.01.2016 withholding the Notification dated 13.01.2016 is not sustainable. Though in that regard the Rules of Business and decisions are cited to contend that the nomination made by the Government cannot be kept in abeyance by a Secretary to the Government, the detailed consideration in that regard will be necessary only if the

Notification dated 13.01.2016 is held sustainable to supersede the Notification dated 26.06.2014.

15. In this backdrop, I have carefully examined the contentions in the light of the decision in the case of T. Krishnappa (supra). In that case, the right as claimed by the nominated member under Section 10 of the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 for the benefit of the extended period of one year arose for consideration therein. This Court in that context took note of the contents of Section 10(4)(a) of the Act which provides for nomination of the members of the first Committee for a period of two years from the date of notification under sub-Section (1) subject to 'pleasure' of the State Government and in that context held that the extended period of one year also under the proviso should be considered to be at the pleasure of the Government. The entire consideration therein was in the context of 'pleasure nominees'. The provision considered in that case reads thus,

> **"10. Constitution of the first market committee:—(4)(a)** Save as otherwise provided in this Act [but subject to the pleasure of the State Government] the members of the first market committee shall hold office for a period of two years from the date of notification under sub-section(1):
>
> Provided that the State Government may by notification extend the term of office of the members by such period or periods not exceeding [Two years] in the aggregates."
>
> (emphasis supplied)

16. On the other hand, in the instant case, though the nomination to be made prior to amendment was by the Chancellor and presently it is by the Government, the period for which the nomination is made is for three years and not at the pleasure of either of the nominating authority. The removal of a nominated member, as noticed is only in the manner s provided under sub-Section (7) to Section 27 of the KVAFSU Act on the ground of misbehavior, misconduct or otherwise after holding an enquiry. Despite no such contingency having arisen and the period of three years under the Notification dated 26.06.2014 not having come to an end,

> **another Notification dated 13.01.2016 nominating persons to the same category will not be in terms of the provisions and scheme of the Act. Through the amendment in question the change made is only about the authority to nominate and the scheme as such has remained the same. In such circumstance, when the Notification dated 13.01.2016 is found to be not in accordance with law, the decision to keep it in abeyance through the Notification/Order dated 21.01.2016 cannot be found fault with nor is there need to interfere with the same as it would be open for the official respondents themselves to recall the same at the appropriate stage after the period of three years as required under the Notification dated 26.06.2014 is spent and thereafter to bring the nomination under the Notification dated 13.01.2016 into effect at that stage as a fresh nomination after the earlier period has elapsed. While computing the period of three years, the period, if any denied to the nominees under the Notification dated 26.06.2014 due to the interruption caused in view of the present action shall also be noted and benefit of the lost period be provided to them to remain on the Board for the entire three years term. Keeping in view the interim orders that were passed during the pendency of these petitions, in order to save the actions taken it is clarified that if the nominees under the Notification dated 13.01.2016 have participated in any meetings of the Board, such decisions taken shall however remain valid for administration purposes."**
>
> (Emphasis supplied)

On a coalesce of the judgments rendered by the Apex Court or the Division Bench of the High Court of Bombay or the Division Bench of this Court, what would unmistakably emerge is, that the doctrine of pleasure cannot be arbitrarily invoked to denominate any person, who is nominated for a fixed term.

11. The other line of judgments rendered by the Apex Court and that of the co-ordinate Bench of this Court are, in the case of **STATE OF U.P. v. U.P. STATE LAW OFFICERS ASSOCIATION**[5] the Apex Court holds as follows:

> "**17.** The Government or the public body represents public interests, and whoever is in charge of running their affairs, is no more than a trustee or a custodian of the public interests. The protection of the public interests to the maximum extent and in the best possible manner is his primary duty. The public bodies are, therefore, under an obligation to the society to take the best possible steps to safeguard its interests. This obligation imposes on them the duty to engage the most competent servants, agents, advisers, spokesmen and representatives for conducting their affairs. Hence, in the selection of their lawyers, they are duty-bound to make earnest efforts to find the best from among those available at the particular time. This is more so because the claims of and against the public bodies are generally monetarily substantial and socially crucial with far-reaching consequences.
>
> … … …
>
> **19.** It would be evident from Chapter V of the said Manual that to appoint the Chief Standing Counsel, the Standing Counsel and the Government Advocate, Additional Government Advocate, Deputy Government Advocate and Assistant Government Advocate, the State Government is under no obligation to consult even its Advocate-General much less the Chief Justice or any of the judges of the High Court or to take into consideration, the views of any committee that "may" be constituted for the purpose. The State Government has a discretion. It may or may not ascertain the views of any of them while making the said appointments. Even where it chooses to consult them, their views are not binding on it. The

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[5] *(1994) 2 SCC 204*

> appointments may, therefore, be made on considerations other than merit and there exists no provision to prevent such appointments. The method of appointment is indeed not calculated to ensure that the meritorious alone will always be appointed or that the appointments made will not be on considerations other than merit. In the absence of guidelines, the appointments may be made purely on personal or political considerations, and be arbitrary. This being so those who come to be appointed by such arbitrary procedure can hardly complain if the termination of their appointment is equally arbitrary. Those who come by the back door have to go by the same door. This is more so when the order of appointment itself stipulates that the appointment is terminable at any time without assigning any reason. Such appointments are made, accepted and understood by both sides to be purely professional engagements till they last. The fact that they are made by public bodies cannot vest them with additional sanctity. Every appointment made to a public office, howsoever made, is not necessarily vested with public sanctity. There is, therefore, no public interest involved in saving all appointments irrespective of their mode. From the inception some engagements and contracts may be the product of the operation of the spoils system. There need be no legal anxiety to save them."

The Apex Court holds that nomination by itself from its nature is that the nominees do not have any vested right to continue as it is not akin to a fixed tenure as found in statutory appointments. A Division Bench of this Court in the case of **THE STATE OF KARNATAKA v. DR. DEEPTHI BHAVA**[6] has held as follows:

> "12. The nomination to the Senate or Syndicate is made from certain category of persons namely persons having special interest in health sciences, from amongst the graduate

[6] W.A.No.617 of 2021 decided on 25-09-2021

of health sciences, experts in the field of health sciences for the purpose of representation of foresaid category of persons. It is not an appointment as the word in common parlance connotes. A person nominated either to the Senate or to the Syndicate does not have any vested right to the post. The nomination is a honorary nomination and is without any financial benefit. It is pertinent to note that plea of vested right to hold a nominated post has been rejected by Supreme Court in **Cheviti Venkanna Yadav v. State of Telangana and others** (2007)1 SCC 283.

13. It is well settled legal proposition that rights created by a statute can also be limited or curtailed by such statute and in the absence of some other competing right under the statute or under the Constitution of India, a right to the post cannot be claimed. It is equally well settled legal proposition that doctrine of pleasure can be impliedly read in a provision and once the doctrine of pleasure is applicable, neither the principles of natural justice nor question of giving an opportunity before removal would arise. **[See: Krishna S/o Bulaji Borate v. State of Maharashtra and others** (2001) 2 SCC 441**]**.

14. It is pertinent to note that taking into account the fact that appellants have been nominated to the post in question and they do not have any substantive right to hold the post, and in the absence of any minimum tenure being prescribed in Section 31, the doctrine of pleasure can be impliedly read into Sections 21 and 24 of the Act. In the absence of any specific provision in the Act for removal of the nominated members prior to reconstitution of Senate or Syndicate, the provisions of Sections 21 and 24 of the Act have to be read along with Sections 16 and 21 of the General Clauses Act, 1897. Therefore, the State Government has power to recall the nominations of persons, nominated to the Senate and Syndicate even before reconstitution of Senate or Syndicate in its entirety.

15. Even otherwise, taking into account the nature of constitution of the Senate and Syndicate, as it comprises the ex-officio as well as nominated members, even partial reconstitution of Senate or Syndicate is permissible. At this stage, it is relevant to take note of the notification dated 23-

10-2020 by which nomination of the appellants was recalled. The aforesaid notification reads as under:

NOTIFICATION

In exercise of the powers conferred under Section 21(1)(x) of Rajiv Gandhi University of Health Sciences Act, 1994, in the public interest and in the interest of academic activities of RGUHS, the earlier notification dated 16-10-2018 is cancelled, the following members amongst the graduates of health sciences are nominated as a member of Senate of RGUHS with immediate effect and until further orders.

Sl. No	Name and Address
1	Dr. Aravinda Shenoy, MBBS, MD (Paediatrics) DM (Neonatology) H.No.115, Old Airport Road, Kodihalli, Bengaluru-560 071
2	Dr. G.A. Deepashree, MBBS,MD (Paediatrics) DM (Nephrology), H.No.166, 3rd Block, 17th Main Road, 49th Cross, Rajajinagar, Bengaluru-560 010.
3	Dr. Venkataswamy Reddy, MBBS, MS (Ophthalmology) H.No.836, 6th Main Road, Modi Hospital Road, West of Chord Road, Rajajinagar, Bengaluru-560 086.
4	Dr. S.Murali, MBBS, MD (Internal Medicine) DM (Neurology) (CMC) FRCP (Edin), PGPX (ULCA), H.No. 520, 6th 'E' Road, 6th Block, Koramangala, Bengaluru 560 094.
5.	Dr. M.K. Mahendra (At present Senate Member) Continued as Senate Member

By the order and in the name of the
Honourable Governor of Karnataka,
(M.Jyothiprakash)
Under Secretary-2,
Medical Education Department.

xxxxx"

Thus, it is evident that the aforesaid notification is neither stigmatic nor leads to any penal consequences. The principles of natural justice also do not apply to the facts of the case. Therefore, the nomination which was made under the provisions of the Act is sought to be annulled as per provisions of the Act. The respondents have made vague allegations with regard to mala fides and have not been able to substantiate the same. In the instant case, there is nothing on record to suggest that power to recall the nomination has been exercised in an arbitrary manner. Even otherwise, the respondents, in the absence of any interim order in this appeal, have substantially completed their tenure in Senate and Syndicate of the University and the tenure of the respondents even otherwise would have expired on 15-10-2021. For this reason also, no interference is called for in the impugned notifications dated 23-10-2020. The action of the appellants is in conformity with the provisions of the Act and does not result in infraction of any of the rights of the respondents."

The Division Bench upturns the order of the learned single Judge holding that the nominees would hold office with the pleasure of the State and cannot be seen to project any right that is taken away when those nominations are cancelled. The Division Bench holds that principles of natural justice also do not apply to cancellation of nominations unless it is shown that it is exercised in an arbitrary manner.

12. A co-ordinate bench of this Court in the case of **PALLAVI VASTRAD Vs. THE STATE OF KARNATAKA[7],** while answering an identical issue considers the entire spectrum of the law and holds as follows:

"…. …. ….

9. The issue that requires consideration is as to whether the action of taking away the petitioners from the Executive Council is to be considered as arbitrary, capricious or unreasonable?.

10. The petitioners have contributed in the field of education. They were nominated as members of Executive Council of VTU vide notification dated 25.03.2023 as per Section 19(3)(d) of the Act of 1994 for a period of 3 years and the same expires with the term of 9th Executive Council of VTU. That in the month of May 2023, elections were held for the Members of Assembly. A new Government came into power in the State of Karnataka and started undoing what was done by the previous Government under the pressure of various political parties. On 24.05.2023, respondent No.2 issued a notification whereby the appointments and nominations made by the preceding Government to various committees in various universities were revoked. Pursuant to the said notification dated 24.05.2023, the membership of the petitioners on 9th Executive Council of VTU was revoked vide notification dated 02.06.2023. The respondent No.6 vide notification dated 26.08.2023 vide Annexure-E, nominated respondents No.4 and 5 as Members of Executive Council of VTU under Section 19(3)(d) of Act of 1994, in place of petitioners. In order to consider the case in hand, it is necessary to examine Section 19 of the Act, which reads as under:

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[7] W.P.No.11958 of 2023, disposed on 08-11-2023

'Section 19(3)(d) enumerate that there can be only three representatives of Government of Karnataka nominated by the State Government one of whom shall be the Director of Technical Education.'

Sub section 4 provides, the term of office of the Members of the Executive Council shall be 3 years. From the perusal of the Act of 1994, there is no specific procedure contemplated to nominate a person. The person thus nominated by the nominating authority will therefore remain on the executive council until he/she enjoys the pleasure of nominating authority.

11. Section 47 deals with the vacating of office, which reads as under:

'Section 47 enumerate the post of membership falls vacant if any member resigns or convicted by Court of law for an offence which involves moral turpitude'.

12. Though there is no provision prescribed under the Act of 1994, for removal of membership of the Executive Council, Section 16 of the General Clauses Act, 1897, which deals with power to appoint to include power to suspend or dismiss, which reads as under:

"16. **Power to appoint to include power to suspend or dismiss.** – Where, by any Central Act or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power."

Section 16 provides that if a person is appointed under any Act or Regulation, the authority may have power to suspend or dismiss.

13. Section 21 deals with the power to issue, to include power to add to, amend, vary or rescind the notifications, orders, rules or byelaws, which reads as under:

"**21. Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws.** – Where, by any Central Act or Regulations a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction

> and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued."

Section 21 empowers an authority which has power to issue notification, has undoubted power to rescind or modify the notification in the like manner.

14. The Hon'ble Apex Court in the case of **RASID JAVED** Vs. **STATE OF UTTAR PRADESH AND ANOTHER** reported in **AIR 2010 SC 2275** held that, the authority which has a power to issue a notification has the power to rescind or modify the notification in the like manner. Though the nominating authority i.e., State issued the notifications nominating the petitioners as members of Executive Council. Subsequently, in view of change in the Government the nominating authority withdrawn the membership of the petitioners as Executive Members of Council and nominated respondent Nos.4 and 5. In view of the same, the petitioners are required to accept the position gracefully as there is no requirement to terminate either with or without the compliance of principles of natural justice like in the case of appointment of post.

15. The Hon'ble Apex Court in the case of **Cheviti Venkanna Yadav** Vs. **State of Telangana and others** reported in **(2017) 1 SCC 283** in para Nos.33 and 34 held as under:

> "33. The aforesaid argument suffers from a fallacy. The members were not elected. They were not appointed by any kind of selection. They were chosen by the State Government from certain categories. The status of the members has been changed by amending the word 'appointed' by substituting it with the word 'nominated'. Thus, the legislature has retrospectively changed the meaning. In our considered opinion, by virtue of the amendment, the term which has been reduced for a nominated member stands on a different footing. In Om Narain Agarwal Vs. Nagar Palika, Shahjahanpur (SCC p.254, para 11) it has been held 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 authorized 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 of any residents of the Municipal Board behind them as may be present in the case of an elected member. The Court further observed that such provision neither offends any article of the Constitution nor is the same against any public policy or democratic norms enshrined in the Constitution.

> 34. The word 'appointment' has been substituted by 'nomination'. It is an appointment by nomination. It is from certain categories for the purpose of representation. It is not appointment as the word ordinarily connotes. The legislature, in its wisdom, has substituted the word 'appointment' and made it 'nomination with retrospective effect'. To enable it to curtail or reduce the term, the procedure for removal remains intact. A nominee can go from office by efflux of time when the period is over. That is different than when he is removed. 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; and the term is one year. The plea of vested right is like building a castle in Spain. It has no legs to stand upon and, therefore, we unhesitatingly repel the said submission."

16. It is well settled legal proposition that rights created by statute can also be curtailed by such a statute and in the absence of some other competing right under the statute or under the Constitution of India, right to the post cannot be claimed. It is equally well settled legal proposition that doctrine of pleasure can be impliedly read in a provision and once the doctrine of pleasure is applicable neither the principles of natural justice nor question of giving an opportunity before removal would arise and does not provide any provision for removal of members of Executive Council. In the absence of any specific provision which provides for removal of Executive Council, clause 16 and 21 of the General clauses Act, 1897 would apply.

17. The Hon'ble Division bench of this Court in writ Appeal No.617/2021 in the case of **THE STATE OF KARNATAKA** Vs. **DR. DEEPTI BHAVA AND OTHERS** , held that in the absence of any specific provision in the Act for removal of the nominated members prior to reconstitution of senate or Syndicate, the provisions of Sections 21 and 24 of the Act have to be read along with Sections 16 and 21 of the General Clauses Act, 1897. Therefore, the State Government has power to recall the nominations of the persons, nominated to the senate or Syndicate even before reconstitution of senate or Syndicate in its entirety. As observed above, the VTU Act does not contain a clause to removal of the Member of the Executive Council. Sections 16 and 21 of the General Clauses Act, 1987, have to be read into and the power to nominate carries with it the power to remove. Applying the provisions of the Sections 16 and 21 of the General Clauses Act, the Government is well within its

power to remove or to withdraw the petitioners' membership of the Executive Council.

18. The learned counsel for the petitioners placed reliance on the judgment of the Hon'ble Apex Court in the case of **B.P. SINGHAL (SUPRA)**. The said judgment does not come to the rescue of the petitioners in any way. The said judgment was rendered in the context of removal of the Governor of a State. Governor is appointed by the President under Article 55 of the Constitution of India and the Governor will act as a link between the Union Government and State Government.

19. In the case of **KUMARI SHRILEKHA VIDYARTHI AND OTHERS** VS. **STATE OF UTTAR PRADESH AND OTHERS**, reported in **(1991) 1 SCC 212,** the District Government Counsel were appointed following the issuance of notifications, prescription of qualifications and experience and preparations of the panels etc. The procedure prescribed by legal remembrancer's manual was scrupulously followed while making appointment to the offices of the Government Counsel.

20. In the instant case, it is not the case of the petitioners that applications were called for from the desirous educationist for being nominated to the member of the Executive Council. The judgments placed and relied upon by the learned counsel for the petitioners are not applicable to the present case in hand.

21. The Co-ordinate bench of this Court in the case of **A.M BHASKAR AND OTHERS** VS. **STATE OF KARNATAKA, DEPARTMENT OF EDUCATION (UNIVERSITY)** reported in **ILR 2013 KAR 4182** had considered the judgments of the Hon'ble Apex Court as referred above and held that the said judgments have been rendered in the case of appointment and not nomination and further held that the petitioners have no legally vested right to demand that they be continued as the members of the Syndicate for the fixed period of 3 years. The petitioners are neither elected nor appointed, they are nominated and they will hold the office so long as Government does not withdraw its pleasure. The said decision is aptly applicable to the case in hand.

22. The learned Senior counsel for the petitioners submits that no reasons have been assigned for withdrawal of membership of the petitioners and he places a reliance on the judgment of the Hon'ble Division bench of Bombay High Court in the case of **DNYANESHWARI DIGAMBER KAMBLE** VS. **STATE OF MAHARASHTRA AND OTHERS** reported in **2015 SCC ONLINE BOMBAY 6597** wherein it is held that withdrawal of pleasure cannot be at the sweet will, whim and fancy of the State Government and it can only be for valid reasons. Moreover, the power of withdrawal of pleasure can be used reasonably and only for public good and further he has placed reliance on the judgment of this Court in the case of **D.K.UDAYKUMAR** VS. **STATE OF KARNATAKA** reported in **(2020) 3 KLJ 100**, wherein the Hon'ble Division bench has reiterated the proposition of law laid down in the case **OF DNYANESHWARI DIGAMBER KAMBLE** referred (supra). The judgments relied upon by the learned senior counsel for the petitioners are not applicable to the present case in hand.

23. Learned Advocate General has placed a reliance on the judgment of the Hon'ble Apex Court in the case of **STATE OF UP VS. UP STATE LAW OFFICERS ASSOCIATION**, reported in **(1994) 2 SCC 204** wherein it is held that, when the nominations are made exercising the pleasure, they do not have vested right to that position and the nominating authority has the inherent right to terminate their appointment at any time.

24. The Hon'ble Apex Court in the case of **OM NARAIN AGARWAL VS. NAGARPALIKA SHAHAJAHANPUR** reported in **(1993) 2 SCC 242** held that unequal cannot be treated equally, which is to say that nominated members cannot claim equity and the security of the elected members. He has placed reliance on the judgment of this Court in the case of **H.RAJAIAH AND ORS.** VS. **STATE OF KARNATAKA AND ORS.**, reported in **ILR 2000 KAR 4989** wherein it is held that the scope of judicial review in the matters of nominations must be limited and cancellation of nomination cannot be invalidated, merely because of allegations of political consideration.

25. Further, the learned Advocate General placed reliance on the judgment of the Hon'ble Division Bench of this Court in the case of STATE OF KARNATAKA VS. DR. DEEPTHI BHAVA AND OTHERS in W.A.No.718/2021 connected

with other writ appeals, wherein it is held that there was no vested right to the nominated to the post when there is no procedure for removal of nominated members, the doctrine of pleasure can be impliedly read into the provision. Considering the judgments placed on record by the learned Advocate General, the issuance of nominating respondent Nos.3 and 4 and withdrawal of the petitioners as membership as a member of executive is legally valid under Section 19(3) of VTU Act, read with Sections 16 and 21 of the General Clauses Act. The removal of petitioners is a non-stigmatic and non-punitive. The petitioners have not made out any grounds to entertain the writ petition. Accordingly, the writ petition is dismissed."

(Emphasis supplied)

Another co-ordinate bench in the case of **PROF.Y.S.SIDDE GOWDA VS. STATE**[8]**,** while answering somewhat similar circumstance, has held as follows:

"…. …. …

37. The matter can also be viewed from a different angle. If the nomination under Section 3(1)(ii) and 7(3) are the same, the term "Vice-Chairman" would not have found a place in Section 7(3). In other words, when a person is already occupying the office of the Vice-Chairman by virtue of a nomination made under Section 3(1)(ii), there was no question of the Vice-Chairman once again being appointed under Section 7(3). The fact that Section 7(3) contemplates the appointment of Vice-Chairman for a term of five years indicates that merely because a person is nominated under Section 3(1)(ii), that does not automatically translate into an appointment as contemplated under Section 7(3). Unless a specific order of appointment in terms of Section 7(3) has been

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[8] W.P.No.22090 of 2023 disposed on 05-12-2023

made, the Vice-Chairman would only be a person nominated by the Government under Section 3.

38. However, even assuming that the petitioner was appointed under Section 7(3), the next question that would arise is whether the petitioner would still have the statutory right to hold Office till 31.10.2027.

39. Section 11 of the Act details the terms and conditions of the Vice-Chairman, the Executive Director and the members. It is to be noticed that apart from these three posts [including that of the Vice-Chairman nominated under Section 3(1)(ii)] and 10 Academicians of repute who are nominated by the Government, all the other members of the Council are entitled to become members by virtue of the Office that they hold. In other words, apart from the Vice-Chairman and 10 Academicians, all the other members are official members. The Executive Director is to be appointed by the Government and such appointee could either be a serving or retired Senior Administrative Officer not below the rank of a Principal Secretary. It is, thus, clear that it is only the Vice-Chairman and the 10 Academicians mentioned above who can be construed as non-official members.

40. Section 11(4) would be relevant for the purpose of this case and the same reads as follows –

> "11(4) Subject to the pleasure of the Government, a non-official member shall hold the office for a term of five years or till the expiry of the term of the body represented by him whichever is earlier."

41. Sub-section (4) starts with the phrase "subject to the pleasure of the Government" and this clearly indicates that a non-official member of the Council would be entitled to hold the Office for a term of five years or till the expiry of the term of the body represented by him, whichever is earlier.

42. It is to be borne in mind that official members will continue to be the members of the Council by virtue of the office that they hold and there is therefore no

question of them being members at the pleasure of the Government.

43. What can be gathered from this is that a specific provision is made only in respect of the non-official members of the Council regarding their tenure and their right to be a part of the Council. Since Sub-section (4) categorically states that non-official members can hold their office for a term of five years, subject to the pleasure of the Government, it is clear that even if a person is appointed to be a member of the Council and he happens to be a non-official member, his right to hold the office would be subject to the pleasure of the Government.

44. Thus, even if it is assumed that the petitioner was appointed by the Government under Section 7 (3), by virtue of sub-section (4) of Section 11, the petitioner (being a non-official member) can hold the Office subject to the pleasure of the Government even if the statutory provision prescribes the period of tenure as 5 years.

45. Since, as per the discussion made above and as could also be seen from the Notification that the petitioner was nominated under Section 3(1)(ii) and was not appointed as provided under Section 7(3), the petitioner would not have a right to hold the Office for a period of 5 years or until 31.10.2027, if he does not have the confidence of the Government.

46. Even if it is assumed that the petitioner was appointed under Section 7(3), as Section 11(4) expressly provides for a non-official member's appointment to hold office would be subject to the pleasure of the Government, it is manifestly clear the petitioner would not have a right to hold the office of the Vice Chairman if he has lost the confidence of the Government.

47. Learned counsel for the petitioner, however, sought to place reliance on the judgment rendered in B.P. Singhal (supra), B.K. Uday Kumar (supra) and T. Suneel Kumar (supra) to contend that even if it is assumed that the theory of doctrine of pleasure is attracted in the case of the petitioner's appointment, nevertheless, the State is required to show compelling reasons for renewing the

petitioner and since no such reason is put forth, the order passed by the State Government cannot be sustainable. It is highlighted that removal of a nominated person, even at the pleasure of the Government, would be subject to judicial review and the same cannot be done in an arbitrary or capricious manner. A Division Bench of this Court in W.A. No.669/2022 has held as follows-

> **"6. It is not in dispute that the appellants have been nominated by respondent no.1 as the syndicate members of respondent no.2-University. Section 39(1) of the Act of 2000 provides that any member nominated under the Act of 2000, shall hold the office during the pleasure of the nominating authority concerned. Section 39(1) of the Act of 2000 reads as under:**
>
> > **"39. Restriction of holding the membership of the authorities.- (1) Any member nominated to any of the authorities under this Act shall hold office during the pleasure of the nominating authority concerned."**
>
> **7. An identical issue was considered by the Division Bench of this Court in W.A.No.617/2021 and at paragraphs 13 & 14, it has been observed as under:**
>
> > **"13. It is well settled legal proposition that rights created by a statute can also be limited or curtailed by such statute and in the absence of some other competing right under the statute or under the Constitution of India, a right to the post cannot be claimed. It is equally well settled legal proposition that doctrine of pleasure can be impliedly read in a provision and once the doctrine of pleasure is applicable, neither the principles of natural justice nor question of giving an opportunity before removal would arise. (See: 'KRISHNA S/o BULAJI BORATE Vs. STATE OF MAHARASHTRA AND OTHERS' (2001) 2 SCC 441).**
> >
> > **14. It is pertinent to note that taking into account the fact that appellants have been nominated to the post in question and they do not have any substantive right to hold the post, and in the absence of any minimum tenure being prescribed in Section 31, the doctrine of pleasure can be impliedly read into Sections 21 and 24 of the Act. In the absence of any specific provision in the**

> **Act for removal of the nominated members prior to reconstitution of Senate or Syndicate, the provisions of Sections 21 and 24 of the Act have to be read along with Sections 16 and 21 of the General Clauses Act, 1897. Therefore, the State Government has power to recall the nominations of persons, nominated to the Senate and Syndicate even before reconstitution of Senate or Syndicate in its entirety."**

8. In the case of A.M.BHASKAR & OTHERS VS THE STATE OF KARNATAKA, DEPARTMENT OF EDUCATION (UNIVERSITIES), REP. BY THE CHIEF SECRETARY & OTHERS2, this Court in paragraph 53 has observed as under:

> "53. The petitioners have no legally vested right to demand that they be continued as the members of the Syndicate for fixed period of three years. The petitioners are neither elected nor appointed. They are nominated and they would hold the office so long as the Government does not withdraw its pleasure. The Apex Court in the case of Om Narain Agarwal (supra) has held that the nominated members of a municipal board fall in a different class and that therefore they cannot claim equality with the elected members. The Apex Court has negatived the submission that there would be a constant fear of removal at the will of the State Government and that it would demoralize the nominated members in the discharge of their duties."
>
> The judgments in B.P.Singhal's case and B.K.Uday Kumar's case supra have been rendered in cases of appointment and not nomination, and therefore, as rightly contended by the learned Additional Advocate General, the same cannot be made applicable to the instant case. In the case of nomination, there is no such prescribed process and the nomination would be done at the pleasure of the nominated authority, and therefore, the nominating authority would also have the power to remove the nominee at its pleasure. Under the circumstances, we are of the considered view that the learned Single Judge was fully justified in dismissing the writ petition and we find no reason to interfere with the said order. Accordingly, the writ appeal is dismissed."

48. In light of the fact that the Notification which is relied upon by petitioner only stated that he had been appointed under Section 3(1)(ii), thereby meaning that he was not appointed under Section 7(3) and since he has also not been subsequently appointed under Section 7(3), it is clear that the judgments upon which reliance is

> **placed i.e., B.P.Singhal (supra) and B.K.Uday Kumar (supra), as distinguished by the Division Bench, would squarely apply. The Division Bench has, in fact, gone on to state that in the case of nomination, the nominating authority would have the power to remove the nominee at its pleasure and having regard to this ratio laid down by the Division Bench, the State Government was justified in removing the petitioner."**

This Court in the case of **DR.C.JAGADEESH VS. STATE**[9], following the afore-quoted judgments of the Apex Court, other High Courts and of this Court, has held as follows:

> "20. **On a coalesce of the judgments rendered by the Apex Court, the Division Bench of this Court and that of the High Court of Bombay and the co-ordinate benches of this Court, what would unmistakably emerge is, a nominee qua his nomination cannot have an indefeasible right to continue.** It is at the pleasure of the Government, which can be withdrawn, as is done in the case at hand. Though the submissions made by the respective learned counsel representing the petitioners would seem acceptance in the first blush, a deeper delving into the matter would clearly indicate that no right of the petitioners is taken away, for this Court to step in, in exercise of its jurisdiction under Article 226 of the Constitution of India and obliterate the action impugned. The nomination of the petitioner in W.P.No.10994 of 2023 to the Central Relief Committee is subject to pleasure of the State Government, as ordained in the statute itself. Therefore, the petitioner therein, on the score that he has become a Chairman does not have any right to so continue, on the score that the Chairman is an appointment and the members are nominated. The Chairman is appointed from out of the nominees. Therefore, the Chairman cannot derive a higher right contending that it is an appointment and a member is a nominee. He is a nominee, appointed as a Chairman, amongst the nominees. Therefore,

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[9] W.P.No.10837 of 2023 & connected matter, disposed on 05th April, 2024

> the birthmark of the petitioner as a nominee does not get effaced merely because he is appointed as the Chairman. Therefore, the said writ petition, on the face of it, does not merit any consideration and is to be dismissed.
>
> 21. Petitioners in Writ Petition No.10837 of 2023 are nominated initially for a period of 3 years or until further orders, whichever would be earlier. The words 'until further orders' is removed. The removal of the words 'until further orders' does not mean that it would be a nomination for a period of 3 years, which would be inflexible. A nomination is a nomination. **A nomination cannot be equated to an appointment. Any statutorily recognized tenure to a nominee would derive a right to such nominee, not a term fixed in the order of nomination, which would always be at the pleasure of the State. No doubt, the nominations cannot be whimsically or arbitrarily, without according any reasons, be denominated. Those are cases which emerge from a fixed statutory tenure, despite it being a nomination, which is not the fact in the case at hand.**"
>
> (Emphasis supplied)

On a blend of the judgments rendered by the Apex Court, Division Bench of this Court, the High Court of Bombay, coordinate benches of this Court and this Court as quoted hereinabove, what would unmistakably emerge is a nominee *qua* his nomination cannot have an indefeasible right to continue when it is at the pleasure of the Government, which can be withdrawn at any time.

13. The stark difference, in the case at hand, is that the appointment of the petitioner is not a nomination. It is an appointment under the Rules – Rule 26. Though the appointment

would indicate that it is for a period of three years or until further orders, it would not mean that the State can act arbitrarily. The arbitrariness is so palpable and demonstrable in the case at hand, the appointment of the petitioner which cannot be termed to be illegal by any means or contrary to the statute, is **taken away by a stroke of pen, not in a month, or a year, but within 24 hours**. If this cannot be termed to be an arbitrary action, on the part of the State, I fail to understand what else can be.

14. Submissions galore from the hands of the learned counsel appearing for the third respondent that there is no proceeding drawn to appoint the petitioner as Additional District Government Pleader. The State Government has placed before the Court entire note sheet for its perusal. The note sheet is replete with proceedings drawn in favour of the petitioner on his application. The only change that comes about is by the following paragraphs of the note sheet dated 29.10.2025:

"…. …. ….

17) ಶ್ರೀ ಸುನೀಲ ಅಣ್ಣಪ್ಪಾ, ಸಂಕ, ವಕೀಲರು, **(KAR-4832/1999). 3656/A/2/BC,** ಸಂಕ ಗಲ್ಲಿ, ಅಥಣಿ, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ ಇವರನ್ನು ಕರ್ನಾಟಕ ಕಾನೂನು ಅಧಿಕಾರಿಗಳ (ನೇಮಕಾತಿ ಮತ್ತು ಸೇವಾ ಷರತ್ತುಗಳು), ನಿಯಮಗಳು 1977 ರ ನಿಯಮ 26(2) ರನ್ವಯ ಬೆಳಗಾವಿ

ಜಿಲ್ಲೆಯ, ಅಥಣಿ 11ನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ, ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಲಯ, (ಸಿಟ್ಟಿಂಗ್-ಅಥಣಿ) ಇಲ್ಲಿನ ಅಪರ ಜಿಲ್ಲಾ ಸರ್ಕಾರಿ ವಕೀಲರ ಹುದ್ದೆಗೆ ನೇಮಕ ಮಾಡಿ ದಿನಾಂಕ: 28.10.2025ರಂದು ಹೊರಡಿಸಿರುವ ಆದೇಶವನ್ನು ಮಾರ್ಪಡಿಸಿ, ಅಥಣಿ ವಿಧಾನ ಸಭಾ ಕ್ಷೇತ್ರದ ಮಾನ್ಯ ಶಾಸಕರ ಕೋರಿಕೆಯಂತೆ ಶ್ರೀ ಡಿ.ಬಿ. ಠಕ್ಕಣ್ಣವರ, ನ್ಯಾಯವಾದಿಗಳು, ಅಥಣಿ ಇವರನ್ನು ಮಾನ್ಯ 11ನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಲಯ, ಬೆಳಗಾವಿ (ಸಿಟ್ಟಿಂಗ್-ಅಥಣಿ) ಇಲ್ಲಿಗೆ ಅಪರ ಜಿಲ್ಲಾ ಸರ್ಕಾರಿ ವಕೀಲರ ಹುದ್ದೆಗೆ ನೇಮಕ ಮಾಡಿ ಮರು ಆದೇಶ ಹೊರಡಿಸುವಂತೆ ಮಾನ್ಯ ಕಾನೂನು, ನ್ಯಾಯ ಮತ್ತು ಮಾನವ ಹಕ್ಕುಗಳ ಇಲಾಖಾ ಸಚಿವರು ಟಿಪ್ಪಣಿ 13ರಲ್ಲಿ ಅದೇಶಿಸಿರುತ್ತಾರೆ.

18) ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಶ್ರೀ ಸುನೀಲ ಅಣ್ಣಪ್ಪಾ ಸಂಕ, ವಕೀಲರು, (KAR-4832/1999) . 3656/A/2/BC, ಸಂಕ ಗಲ್ಲಿ, ಅಥಣಿ, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ ಇವರನ್ನು ಕರ್ನಾಟಕ ಕಾನೂನು ಅಧಿಕಾರಿಗಳ (ನೇಮಕಾತಿ ಮತ್ತು ಸೇವಾ ಷರತ್ತುಗಳು), ನಿಯಮಗಳು 1977 ರ ನಿಯಮ 26(2) ರನ್ವಯ ಬೆಳಗಾವಿ ಜಿಲ್ಲೆಯ ಅಥಣಿ 11ನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಲಯ, (ಸಿಟ್ಟಿಂಗ್-ಅಥಣಿ) ಇಲ್ಲಿನ ಅಪರ ಜಿಲ್ಲಾ ಸರ್ಕಾರಿ ವಕೀಲರ ಹುದ್ದೆಗೆ ನೇಮಕ ಮಾಡಿ ದಿನಾಂಕ: 28.10.2025 ರಂದು ಹೊರಡಿಸಿರುವ ಅಧಿಸೂಚನೆಯನ್ನು ಹಿಂಪಡೆದು ಮಾನ್ಯ ಕಾನೂನು, ನ್ಯಾಯ ಮತ್ತು ಮಾನವ ಹಕ್ಕುಗಳ ಇಲಾಖಾ ಸಚಿವರು ಟಿಪ್ಪಣಿ 13ರಲ್ಲಿ ಅದೇಶಿಸಿರುವನ್ವಯ ಶ್ರೀ ಡಿ. ಬಿ. ಠಕ್ಕಣ್ಣವರ, ವಕೀಲರು, ಶ್ರೀರಾಮ ನಗರ, ವಿಕ್ರಮಪುರ, ಅಥಣಿ ತಾಲ್ಲೂಕು 591304, ಬೆಳಗಾವಿ ಜಿಲ್ಲೆ ಇವರನ್ನು ಬೆಳಗಾವಿ ಜಿಲ್ಲೆಯ 11ನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಲಯ (ಸಿಟ್ಟಿಂಗ್ - ಅಥಣಿ) ಇಲ್ಲಿನ ಅಪರ ಜಿಲ್ಲಾ ಸರ್ಕಾರಿ ವಕೀಲರ ಹುದ್ದೆಗೆ ಕರ್ನಾಟಕ ಕಾನೂನು ಅಧಿಕಾರಿಗಳ (ನೇಮಕಾತಿ ಮತ್ತು ಸೇವಾ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1977ರ ನಿಯಮ 26(2)ರನ್ವಯ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ, ಹುದ್ದೆಯ ಪ್ರಭಾರವನ್ನು ವಹಿಸಿಕೊಳ್ಳುವ ದಿನಾಂಕದಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ ಮೂರು ವರ್ಷದ ಅವಧಿಗೆ ಅಥವಾ ಮುಂದಿನ ಆದೇಶದವರೆಗೆ ಇವೆರಡರಲ್ಲಿ ಯಾವುದು ಮೊದಲೋ ಅಲ್ಲಿಯವರೆಗೆ ನೇಮಿಸಲು ಮತ್ತು ದಿನಾಂಕ: 28.10.2025ರಂದು ಹೊರಡಿಸಿರುವ ಅಧಿಸೂಚನೆಯನ್ನು ಹಿಂಪಡೆಯಲು ಕರಡು ಅಧಿಸೂಚನೆಯನ್ನು ಅನುಮೋದನೆಗಾಗಿ ಕಡತವನ್ನು ಸಲ್ಲಿಸಲಾಗಿದೆ.

ಸಹಿ/- 29/10/25
(ಆದಿನಾರಾಯಣ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
ಕಾನೂನು, ನ್ಯಾಯ ಮತ್ತು ಮಾನವ
ಹಕ್ಕುಗಳ ಇಲಾಖೆ (ಆಡಳಿತ-2)"

(Emphasis added)

The appointment of the petitioner is made on 28-10-2025. The Minister directs that the appointment should be withdrawn and the third respondent should be appointed. What follows immediately is, withdrawal of the appointment of the petitioner and appointment of the 3rd respondent by the impugned order. The submission is that the petitioner's application was long after the application submitted by the 3rd respondent. This is again contrary to the record. The application of the 3rd respondent is said to be on 29-04-2025, which remained an application till it was **processed** in the aforesaid paragraph of the note sheet. The petitioner's application is in the year 2024; it is on 09-10-2024. All the proceedings for appointment have been drawn on the application of the petitioner and not of the 3rd respondent. The submission of the learned counsel for the 3rd respondent that his application earlier submitted is contrary to the record and the submission that the application of the petitioner was not processed, is again contrary to the record.

15. The learned counsel for the 3rd respondent relies on a judgment rendered by the coordinate Bench in **SHANTREDDY v.**

STATE OF KARNATAKA – W.P.No.202928 of 2023, decided on 21-12-2023 in which the coordinate bench rejects an identical plea of a Government Pleader to continue in the post. The said judgment is distinguishable on facts of the case at hand without much ado. The petitioner therein had assumed charge of the post on 01-03-2023 and was entitled to continue upto 01-03-2026. He was removed on 07-10-2023, which was 7 months after his appointment. The coordinate bench holds that this by no means, held to be arbitrary. It was a pleasure term and the incumbent had to give way to another person. Therefore, the said judgment would not become applicable to the facts obtaining in the case at hand. The State has also placed plethora of judgments on the issue of pleasure and its power to terminate a nominee or de-nominate any person, appoint a law officer or remove a law officer. All the said judgments are distinguishable again without much ado.

16. **In the case at hand, the appointment made after due process, was extinguished the very next day, not for administrative exigency, not for legal infirmity, but solely on account of a sudden change of mind, resting on a tippani**

from the Minister. If such caprice is permitted judicial shelter, then the doctrine of pleasure would transmute into an instrument of unbridled executive whim, reducing the Constitutional safeguards to a rhetoric. This Court, cannot be a mute spectator to such executive freewheeling. Judicial intervention becomes not merely appropriate, but imperative in such cases.

17. **In the tapestry of adjudication, some cases glide quietly into the annals of routine, while others stand as reminders of the first principle. The subject petition, is a firm reminder of those first principles, that public power even when draped in the language of "pleasure" is never licensed to stray into arbitrariness. The Constitution is ever watchful, and ever restraining**. The events, in the case at hand, that **unfolded over a fleeting span of 24 hours, reveal more than administrative irregularity, it destroys delicate balance between the executive prerogative, and the Constitutional discipline**. When State action shifts this swiftly and without explanation, the vital question is, is this discretion or is it

arbitrariness, and an unequivocal and emphatic answer is **"the action is arbitrary". The appointment made is on one day, and undone the next day, within a span of just 24 hours.** The petitioner so appointed, as Government Pleader, assumed charge, appeared in the Court and was abruptly removed without reason and the 3rd respondent is appointed, **all in 24 hours**. Perhaps, this is first case in the annals of judicial review of such gross arbitrary exercise of power; in 24 hours the State changes its own orders, to its whim.

The State must remember that, **Article 14 of the Constitution of India is that golden thread that is woven through the entire fabric of Constitution of India and every bead of the State action should pass through that golden thread, any action of the State cannot be arbitrary.**

18. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petition is allowed.

(ii) Notification dated 29-10-2025 appointing the 3rd respondent as Additional District Government Pleader is obliterated and the appointment of the petitioner as such in terms of the order dated 28-10-2025 is restored.

(iii) The petitioner shall be entitled to all consequential benefits that would flow from this order.

Sd/-
(M.NAGAPRASANNA)
JUDGE

nvj
CT:MJ