

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19th DAY OF SEPTEMBER 2025

BEFORE

THE HON'BLE MR. JUSTICE H. T. NARENDRA PRASAD

WRIT PETITION NO.14899 OF 2025(S-RES)

BETWEEN:

DR H.VISHWANATH
S/O SRI HANUMATHAPPA
AGED ABOUT 61 YEARS
REGISTRAR EVALUATION
KARNATAKA STATE OPEN UNIVERSITY
MANASAGANGOTHRI UNIVERSITY
MYSORE-570 006.

... PETITIONER

(BY SRI VIVEK S REDDY, SENIOR COUNSEL FOR
SRI. A D RAMANANDA, ADVOCATE)

AND:

1. STATE OF KARNATKA
REP BY ITS SECRETARY
DEPARTMENT OF HIGHER EDUCATION
M S BUILDING, DR. AMBEDKAR ROAD
BANGALORE-560 001.
2. THE GOVERNOR OF KARNATAKA AND THE
CHANCELLOR
KARNATAKA STATE OPEN UNIVERSITY
MANASAGANGOTHRI UNIVERSITY
MYSORE-570 006.
REP BY ITS SECRETARY

3. KARNATAKA STATE OPEN UNIVERSITY
BY ITS REGISTRAR
KARNATA STATE OPEN UNIVERSITY
MANASAGANGOTHRI UNIVERSITY
MYSORE-570 006.
4. DR C S ANANDA
REGISTRAR (EVALUATION)
KARNATA STATE OPEN UNIVERSITY
MANASAGANGOTHRI UNIVERSITY
MYSORE-570 006.

... RESPONDENTS

(BY SRI VIKAS R, AGA FOR R1:
SRI UDAY HOLLA, SENIOR ADVOCATE FOR
SRI. SANTHOSH S NAGARALE, ADVOCATE FOR R2:
SMT. KEETHI REDDY, ADVOCATE FOR
SRI ABHISHEK KUMAR, ADVOCATE FOR R3:
SRI VIKARAM S HUILGOL, SENIOR ADVOCATE FOR
SRI. YATHISH S, ADVOCATE FOR C/R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED NOTIFICATION DATED:19.05.2025 BEARING NO GS07 KOM 2025 ISSUED BY THE 2ND RESPONDENT THEREBY APPOINTING RESPONDENT NO.4 HEREIN TO THE POST OF THE REGISTRAR EVALUATION OF 3RD RESPONDENT UNIVERSITY VIDE ANNEXURE-A IN PLACE OF THE PETITIONER, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS WRIT PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 22.08.2025, COMING ON FOR PRONOUNCEMENT, THIS DAY, THE COURT, MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

CAV ORDER

This writ petition is filed under Article 226 of the Constitution of India, challenging the impugned notification dated 19.05.2025 (Annexure-A), issued by the second respondent, appointing the fourth respondent as Registrar (Evaluation) of the Karnataka State Open University, Mysuru, in place of the petitioner.

2. The petitioner has completed his Master's in Kannada Literature in the year 1997, and he has a Ph.D. in Kannada in the year 2013. He has also published several books and he is a recipient of State and National awards. He was initially working as a guest lecturer at Zakir Hussain Degree College in Davanagere. Thereafter, he was appointed as Principal of S.G.Ramappa PU College, Gandhinagar, Davanagere and he was promoted as Professor under

CAS by an order dated 19.04.2025 (Annexure-B). Thereafter, he was appointed as Registrar (Evaluation) to the third respondent – University, by order dated 02.03.2024 produced as Annexure-C. Immediately, thereafter, on 07.03.2024 he assumed charge as Registrar (Evaluation). When things stood thus, the second respondent issued the impugned notification on 19.05.2025, appointing the fourth respondent herein to the post of Registrar (Evaluation) of the third respondent – University, in place of the petitioner. Being aggrieved by the same, the petitioner is before this Court.

3. Sri Vivek Subbareddy, the learned Senior Counsel appearing for the petitioner has raised the following contentions:

(i) Firstly, considering the petitioner's qualification, he was appointed as Registrar

(Evaluation) of the third respondent – University by the Chancellor on 02.03.2024, after consultation with the Vice Chancellor and the State Government. But, without any reason, the impugned notification has been issued, replacing the petitioner by the fourth respondent. This action of the second respondent is contrary to Section 13 of the Karnataka State Open University Act, 1982 (for short, 'University Act') and Clause 5(1) of the I Statute set out in the II Schedule of the University Act.

(ii) Secondly, in similar circumstances, this Court in the case of **DR.K.JANARDHANAM vs. STATE OF KARNATAKA, REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY TO GOVT. AND OTHERS** reported in **(2020) 3 AIR Kant R 800**, has held that at least it has to be continued for two years. Before the completion of two years, the petitioner has been replaced.

(iii) Thirdly, the action of the second respondent unceremoniously removing the petitioner without any reason is an arbitrary action and is contrary to the law laid down by this Court. In support of his contentions, he relied on the judgment of this Court in the case of **DR.K.JANARDHANAM (supra)** and the order passed by this Court in the case of **DR.K.M.MAHADEVAN vs. STATE OF KARNATAKA AND OTHERS (W.P.No.8413/2024 disposed of on 18.06.2024).**

Hence, sought to allow the writ petition.

4. Per contra, Sri Udaya Holla, learned Senior Counsel appearing for the second respondent - Chancellor has raised the following contentions:

(i) Firstly, the petitioner was appointed as Registrar (Evaluation), by invoking Section 13 of the University Act. Under the Act, there is no fixed term. The appointment of the petitioner was until further

orders. The Chancellor, by invoking the doctrine of pleasure, has replaced the petitioner. The petitioner cannot claim as a matter of right to continue in that post.

(ii) Secondly, the authority who has the power to appoint has the power to remove. The doctrine of pleasure can be employed leading to Sections 21 and 24 of the General Clauses Act. In support of his contention, he relied on a Division Bench judgment of this Court in W.A.No.617/2021 and connected matters disposed of on 25.09.2021.

(iii) Thirdly, once the doctrine of pleasure is applicable, neither the principles of natural justice would be stepped into, nor any question of giving any opportunity before removal would arise. In support of his contention, he relied on the judgment of this Court in the case of **SANGAPPA vs. STATE OF**

KARNATAKA reported in **ILR 1987 Kar.1555** and **SIDDAPPA B.S. vs. STATE OF KARNATAKA** reported in **(1979) 2 KLJ 238** and the judgment of the Apex Court in the case of **KRISHNA vs. STATE OF MAHARASHTRA AND OTHERS** reported in **(2001) 1 SCC 441**. Hence, he sought for dismissal of the writ petition.

5. Sri Vikram Huligol, the learned Senior Counsel appearing for the fourth respondent has raised the following contentions:

(i) Firstly, the impugned order was passed by the second respondent, the Governor of the State, who is the highest constitutional authority, after consultation with the State Government and the Vice Chancellor. Therefore, the petitioner cannot allege that the impugned order has been passed arbitrarily.

(ii) Secondly, Section 13 and Clause 5(1) of the I Statute set out in the II Schedule of the University Act prescribes the procedure to appoint the Registrar (Evaluation). As per the provision, the Chancellor, in consultation with the State Government and the Vice Chancellor has passed the impugned order. The impugned order at Annexure-A was passed after following all procedures of law. Therefore, the petitioner cannot find fault with the impugned order.

6. The learned counsel for the third respondent – University submits that the University has received some complaints regarding the conducting of the examination through e-mail. Under Section 13 r/w. Clause 5(1) of the I Statute set out in the II Schedule of the University Act, the University has recommended the three names for appointment as Registrar (Evaluation). The Chancellor, after considering all

these aspects, has passed the impugned order. Hence, sought for dismissal of the writ petition.

7. Heard the learned counsel for the parties and perused the petition papers.

8. The petitioner was appointed as Registrar (Evaluation) by the Chancellor of the University by order dated 02.03.2024, after consultation with the State Government and the Vice Chancellor of the respondent – University.

9. The petitioner assumed charge as Registrar (Evaluation) on 07.03.2024. By the impugned order dated 19.05.2025 vide Annexure-A, the fourth respondent was appointed as Registrar (Evaluation) in place of the petitioner. The contention of the respondents is that there is no fixed term prescribed for the office of the Registrar (Evaluation) under the University Act and in the Statutes. They further

submit that the appointment order vide Annexure-C clearly stated that the appointment of the petitioner is “until further orders”. The appointment was in the nature of a pleasure appointment. By invoking the doctrine of pleasure, the petitioner has been replaced by an order dated 19.05.2025.

10. The point that arises for consideration in this writ petition is, whether the impugned order at Annexure-A, whereby the pleasure appointment of the petitioner has been withdrawn without assigning any reason, is sustainable in law.

11. In this regard, it is relevant to refer to the landmark judgment of the Apex Court in the case of **B.P.SINGHAL vs. UNION OF INDIA** reported in **(2010) 6 SCC 331**. The relevant paragraphs are extracted below:

"8. The learned Attorney General appearing on behalf of the respondents raised a preliminary objection to the maintainability of the writ petition. He submitted that if the four Governors who were removed, do not wish to seek any relief and have accepted their removal without protest, no member of the public can bring a public interest litigation for grant of relief to them.

9. On merits, the learned Attorney General submitted that the provision that the Governor shall hold office during the pleasure of the Government meant that the President's pleasure can be withdrawn at any time resulting in the removal of the Governor, without assigning any reason. He submitted that the Founding Fathers had specifically provided that Governors will hold office during the pleasure of the President, so as to provide to the Union Government, the flexibility of removal if it lost confidence in a Governor or if he was unfit to continue as Governor. He shifted from the stand in the counter that the power under Article 156(1) is an unfettered discretion. He submitted that a provision that the Governor shall hold office during the

pleasure of the President, is not a licence to act arbitrarily, whimsically or capriciously. The Union Government did not claim any right to do what it pleases, as the Constitution abhors arbitrariness and unfettered discretion. He stated that the removal should be for a reason, but such reason need not be communicated. He also submitted that removal by applying the doctrine of pleasure need not necessarily relate to any act or omission or fault on the part of the Governor. He submitted that in essence, the object of providing that the Governor shall hold office during the pleasure of the President was that if the President lost faith in the Governor or found him unfit for whatever reason, he can withdraw the Presidential pleasure resulting in removal. He submitted that the pleasure doctrine cannot be denuded of its width, by restricting its applications to specific instances of fault or misbehaviour on the part of the Governor, or by implying an obligation to assign or communicate any reason for the removal.

10. The learned Attorney General submitted that in a democracy, political parties are formed on shared beliefs and they contest

election with a declared agenda. If a party which comes to power with a particular social and economic agenda, finds that a Governor is out of sync with its policies, then it should be able to remove such a Governor. The learned Attorney General was categorical in his submission that the Union Government will have the right to remove a Governor without attributing any fault to him, if the President loses confidence in a Governor or finds that the Governor is out of sync with democratic and electoral mandate.

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.

(i) Maintainability of the writ petition

12. The respondents submitted that a writ petition by way of PIL, to secure relief for the Governors who have been removed from office, is not maintainable as none of the aggrieved persons had approached the court for relief and the writ petitioner has no locus to maintain a petition seeking relief on their behalf. It is pointed out that Governors do not belong to a helpless section of society which by reason of poverty, ignorance, disability or other disadvantage, is not capable of seeking relief. Reliance is placed on the following observations of this Court in S.P. Gupta v. Union of India [1981 Supp SCC 87] : (SCC pp. 219-20, para 25)

"25. ... cases may arise where there is undoubtedly public injury by the act or omission of the State or a public authority but such act or omission also causes a specific legal injury to an individual or to a specific class or group of individuals. In such cases, a member of the public having sufficient interest can certainly maintain an action challenging the legality of such act or omission, but if the

person or specific class or group of persons who are primarily injured as a result of such act or omission, do not wish to claim any relief and accept such act or omission willingly and without protest, the member of the public who complains of a secondary public injury cannot maintain the action, for the effect of entertaining the action at the instance of such member of the public would be to foist a relief on the person or specific class or group of persons primarily injured, which they do not want."

13. The petitioner, by way of reply, merely pointed out another observation in S.P. Gupta [1981 Supp SCC 87] : (SCC pp. 211-12, para 18)

"18. ... But there may be cases where the State or a public authority may act in violation of a constitutional or statutory obligation or fail to carry out such obligation, resulting in injury to public interest or what may conveniently be termed as public injury as distinguished from private injury. Who would have the standing to complain against such act or omission of the State or public authority? Can any member of the public sue for judicial redress? Or is the standing limited only to a certain class of persons? Or there is no one who can complain and the public injury must go unredressed? ...

... If the State or any public authority acts beyond the scope of its power and thereby causes a specific legal injury to a person or to a determinate class or group of persons, it would be a case of private injury actionable in the manner discussed in the preceding paragraphs. So also if the duty is owed by the

State or any public authority to a person or to a determinate class or group of persons, it would give rise to a corresponding right in such person or determinate class or group of persons and they would be entitled to maintain an action for judicial redress. But if no specific legal injury is caused to a person or to a determinate class or group of persons by the act or omission of the State or any public authority and the injury is caused only to public interest, the question arises as to who can maintain an action for vindicating the rule of law and setting aside the unlawful action or enforcing the performance of the public duty. If no one can maintain an action for redress of such public wrong or public injury, it would be disastrous for the rule of law, for it would be open to the State or a public authority to act with impunity beyond the scope of its power or in breach of a public duty owed by it. The courts cannot countenance such a situation where the observance of the law is left to the sweet will of the authority bound by it, without any redress if the law is contravened. The view has therefore been taken by the courts in many decisions that whenever there is a public wrong or public injury caused by an act or omission of the State or a public authority which is contrary to the Constitution or the law, any member of the public acting bona fide and having sufficient interest can maintain an action for redressal of such public wrong or public injury. The strict rule of standing which insists that only a person who has suffered a specific legal injury can maintain an action for judicial redress is relaxed and a broad rule is evolved which gives standing to any member of the public who is not a mere busybody or a meddling interloper but who has sufficient interest in the proceeding."

14. A similar public interest litigation came up before a Constitution Bench of this Court in Ranji Thomas v. Union of India [(2000) 2 SCC 81], seeking intervention of this Court to restrain the President of India from "forcibly" extracting resignations from various Governors and Lt. Governors. Prayer (a) therein sought quashing of the resignations of certain Governors and Lt. Governors and Prayer (b) sought a direction restraining the President from accepting the "involuntary and forced" resignation of Governors and Lt. Governors. Prayer (c) was a general prayer for a declaration that communication of the President seeking the resignation of Governors and Lt. Governors was ultra vires the Constitution. Dealing with the contention that such a petition was not maintainable this Court observed: (SCC p. 82, paras 5-6)

"5. The learned Attorney General appearing for the Union of India submits that this public interest litigation is not maintainable at the instance of the petitioner, since none of the Governors or Lt. Governors have approached this Court or protested against their being asked to resign and that the petitioner cannot challenge an act which the party affected does not wish to nor intend to challenge. He relies upon the observations made by this Court in

S.P. Gupta v. Union of India [1981 Supp SCC 87] .

6. Insofar as Prayers (a) and (b) in the writ petition are concerned, we find force in the submission of the learned Attorney General. But, insofar as Prayer (c) of the writ petition is concerned, it raises an important public issue and involves the interpretation of Article 156 of the Constitution of India, as at present advised, we do not think that we can deny locus to the petitioner for raising that issue."

15. The petitioner has no locus to maintain the petition in regard to the prayers claiming relief for the benefit of the individual Governors. At all events, such prayers no longer survive on account of passage of time. However, with regard to the general question of public importance referred to the Constitution Bench, touching upon the scope of Article 156(1) and the limitations upon the doctrine of pleasure, the petitioner has the necessary locus.

(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 show 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 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."

(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."

12. Following the aforesaid judgment, a Division Bench of this Court in the case of **B.K.UDAY KUMAR vs. STATE OF KARNATAKA** reported in **2020 SCC OnLine Kar 43**, held as below:

"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 BESCO. 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) BESCO and to appoint the appellant to the said post. Therefore, we will have to consider the law laid down by the Apex Court on the doctrine of pleasure to decide this question arising in this appeal.

10. A proposal was prepared by the BESCO. 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) BESCO. 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) BESCO 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".

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".

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 for 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) BESCO. 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 BESCO 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 BESCO 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."

13. The Division Bench of the High Court of Bombay in the case of **DNYANESHWAR DIGAMBER KAMBLE vs. STATE OF MAHARASHTRA** reported in **(2015) SCC ONLINE Bombay 6597** 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 conferred in

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

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 exist in India. Ultimately in paragraph 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."

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."

14. A reading of the aforesaid judgments would clearly emerge that, the doctrine of pleasure cannot be arbitrarily invoked, without giving any reason.

15. This Court, in similar circumstances, under the Karnataka State Universities Act, in the case of **DR.K.JANARDHANAM (supra)**, while considering deciding on the limits of the power exercisable under the doctrine of pleasure, held as follows:

"(e) it is not the case of the government that the circumstances of the case allowed only one possibility i.e., making of the order in challenge as it stands; what prompted the government to remove the petitioner within less than a year of his appointment, is not forthcoming either in the Statement of Objections or in the submission of the learned AGA; it's inscrutability scope for the argument of unreasonableness/arbitrariness, when law requires that every action of the government should be informed with reason vide E P Royappa, supra.

(f) Section 18 does not indicate any fixed tenure for the incumbent of the office of Registrar (Evaluation); its text is silent in this regard; in such circumstances what the learned Judge Aharon Barak of Israel's Supreme Court suggests in his "Purposive Interpretation in Law" first Indian Reprint- 2007, Universal Law Publishing Company Pvt. Ltd is worth considering; he states at Pages 67, 68 & 69 as under:

"A normative text's silence may mean many things, and may speak in different voices. Only one of these voices is the voice of a gap...In principle a text's silence on a particular issue can be interpreted in one of four ways: First, the text does not expressly provide a solution for a particular issue, but interpreting the text implicitly resolves the issue...Second, the text is silent about a particular issue because it concerns a type of situation that text does not address at all...Third, the text's provisions for the issues it explicitly address do not apply to issues that it does not address. This is a "speaking silence" or a "conscious silence". The silence implies, and the implication is that the text's provisions do not apply to issues it does not address...Fourth, the provision in the normative text is incomplete. The text implicitly or explicitly settles certain issues, but fails to regulate other issues that it is supposed to address, and that it does not exclude by conscious silence. There is a gap in the text regarding these issues. A gap in the text, then, exists when the text aspires to a

comprehensive provision, but the provision is incomplete. One can imagine the text as a wall with a missing brick...The text is supposed to settle the issue, but it is incomplete, disabled...An uncertain provision is not a missing provision, because the process of interpretation will eventually resolve the uncertainty...a text granting discretion to someone does not necessarily contain a gap...if a controversy cannot be decided by a precise provision, consideration is given to provisions that regulate similar cases or analogous matters; if the case still remains in doubt, it is decided according to the general principles of the legal order of the State..."

This suggestion throws some light on way the question being considered, travels.

(g) A kindred provision namely section 14 of the Act by norm fixes a tenure of four years for the Vice-Chancellors subject to some conditions, whereas already mentioned above, section 18 does not; added to this, both the opposing sides having produced some records stated on oath that the predecessors of the petitioner in the University and his counterparts in other universities were allowed tenures approximately ranging from one year to four years; the above suggestion of jurist-Judge Barak and the tenure normed in the kindred provision, coupled with past

practice/precedents relating to section 18 appointments, provide some yardstick/standard for adjudging the reasonableness of the impugned action; when so examined on this yardstick, one year appears to be a short tenure and four years appear to be too long; one can assume two years as a "pragmatic golden mean"; the impugned order when measured on this yardstick falls short of standard; a prudent person can state: "thou art weighed on the balance and found wanting"; however, this court is not prescribing any specific tenure for the incumbent of the office in question since such power belongs to the domain of law maker; this standardization is only for the limited purpose of normative examination of the complaint of unreasonableness & arbitrariness that have infected the impugned action.

(h) The strenuous contention of the learned AGA that section 18(1) of the Act implicitly enacts the 'doctrine of pleasure' and therefore, the appointee holds the office during the pleasure of the Government is difficult to agree with; the text of the provision does not support this contention, and its context repels

its invocation; sub-section (6) of section 14 relating to appointment of Vice-Chancellor employs the expression "pleasure of the Chancellor"; here again, it is subject to the limitations enacted in sub-sections (7) & (8) thereof; such an expression or the like is conspicuously absent in section 18; therefore, this court cannot invent one when the text of the provision does not give room for that; even otherwise, the said doctrine too does not immune the public law action from judicial scrutiny, vide S.R. Bommai Vs. Union of India, (1994) 2 SCR 644.

*(i) The employment of the term 'until further orders' in the impugned order which the learned AGA heavily banked upon to negate the challenge cannot be construed as giving a *blanca carta* to the Government to do what the reason & justice do not approve; the Apex Court in UOI Vs. S.N. Maity, (2015) 4 SCC 164 observed: "merely because the words 'until further orders' are used, it would not confer allowance on the employer to act with caprice"; this dicta applies to the case of the petitioner with more force since government is*

not his employer, the power to appoint having been vested in it, notwithstanding.

(j) There is a lot of force in the submission of the learned counsel for the petitioner that, regardless of its power of appointment & removal, the government cannot treat the university as its department and its statutory authorities, as its own civil servants; a contention to the contrary undermines the essential autonomy enacted in favour of the universities; the decisions relied upon by the learned AGA namely Ratilal B Sony Vs. State of Gujarat, 1990 Supl. SCC 243 and Kunal Nanda Vs. UOI, (2005) 5 SCC 362, do not come to the rescue of respondents; apparently, they did not involve displacement of high statutory functionaries like the petitioner; what norms ordinarily apply to the transfer & posting of civil servants does not ipso facto apply to the appointment & removal of university functionaries; case of the petitioner is not one of transfer & posting of ordinary civil servants in the routine administration; it involves a matter far serious, by its very nature; these Rulings were

rendered in a fact matrix that was miles away from the one in this petition.

(k) Here is, a case of abrupt & unceremonious removal of a prominent university functionary in less than a year of appointment, allegedly 'in the public and administrative interest'; to substantiate this assertion, as already mentioned above, neither the File is produced nor the circumstances are pointed out which vouch the employment of these high sounding words; it is not the requirement of petitioner's services for teaching or that his continuation was not conducive to the administration of university affairs; nor his removal is founded on any allegations; thus, the expression 'in the public and administrative interest' which is mechanically pasted almost invariably in the Government Orders of the kind now a days, cannot be chanted like a vedic mantra for pre-empting their challenge; what a Co-ordinate Bench of this court had observed in its judgment dated 19.06.2017 in W.P.No.24645/2017 between Dr.R.Rajanna Vs. State of Karnataka, which the AGA pressed into service does not save the impugned action

from invalidation, these observations having been made in different circumstances of the case and no law having been laid down, after examining the provisions of the Act.”

16. In the present case, the respondents specifically contend that the doctrine of pleasure was invoked while passing the impugned order. Therefore, it is relevant to extract the applicable provision of the University Act.

17. Section 13 of the University Act refers to the appointment of the Registrar Examination. The same reads as follows:

*"13. The Registrar of Examinations –
(1) The Registrar of Examinations shall be appointed in such manner on such emoluments and other conditions of service and as may be prescribed by the Statutes.”*

18. With regard to the condition of service of the Registrar (Evaluation) as prescribed under the

Statutes, Clause 5(1) of the I Statute set out in the II Schedule of the University Act is relevant for the purpose of this case. Hence, the same is extracted below:

"5. The Registrar of Examination –

(1) The Registrar of examination shall be appointed by the Chancellor in consultation with the Vice-Chancellor and the State Government and he shall be a whole time salaried officer of the University."

19. From the above provision, it is clear that the Registrar (Evaluation) shall be appointed by the Chancellor in consultation with the Vice-Chancellor and the State Government, and he shall be a whole time salaried officer of the University.

20. The petitioner was holding a Master's Degree in Kannada literature and P.hd. in Kannada. He was working as an Associate Professor at Davanagere University. The Chancellor, in consultation with the

Vice-Chancellor and the State Government, appointed the petitioner as Registrar (Evaluation) on 02.03.2024. The appointment of the petitioner was made after following due process of law as prescribed under the University Act and the Statutes. By the impugned order dated 19.05.2025, vide Annexure-A, the fourth respondent was appointed in place of the petitioner. What prompted the respondents to remove the petitioner within one year and three months of his appointment is not forthcoming, either in the impugned order at Annexure-A or in the xerox copy of the file produced by the learned counsel for the University. The doctrine of pleasure has thus been invoked without recording any reason. The law laid down by the Apex Court squarely applies to the facts of this case. Hence, the impugned order requires to be quashed.

21. The Apex Court in the case of **STATE OF UP vs. UP STATE LAW OFFICERS ASSOCIATION** reported in **(1994) 2 SCC 204** has held that, in the absence of any prescribed guidelines, the appointment may be made purely as personal or political consideration and be arbitrary. This being so, those who come to be appointed by such an arbitrary procedure can hardly complain if the termination of their appointment is equally arbitrary. Those who come by backdoor have to go by the same door.

22. Further, the appointment of the petitioner is not a nomination by the Government or the Chancellor. It is neither a personal, nor political, nor an arbitrary appointment. Therefore, the judgments relied upon by the respondents are not applicable to the facts of this case.

23. Even in the judgment of a Division Bench of this Court relied upon by the learned Senior Counsel in W.A.No.617/2021, there is no dispute regarding the power of the appointing authority. It is also not disputed that, in the absence of a prescribed tenure, the doctrine of pleasure can be impliedly read into Sections 21 and 24 of the General Clauses Act. However, that case pertains to the nomination of a syndicate member. Therefore, the said judgment is not applicable to the facts of the present case.

The question framed for consideration is answered accordingly.

24. For the reasons stated above, the following order is passed:

- (i) The writ petition stands disposed of.
- (ii) The impugned order dated 19.05.2025 vide Annexure-A passed by the second respondent is quashed.

- (iii) It is made clear that this order will not preclude the second respondent – Chancellor from taking appropriate action for replacing the petitioner, in accordance with law.

**Sd/-
(H.T. NARENDRA PRASAD)
JUDGE**

CM/-