

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 326 OF 2015

Mr. Jeevanrao Vishwanathrao Gore	..Petitioner
V/s.	
State of Maharashtra	..Respondents
through its Department of Home	
Mantralaya, Mumbai. & Ors.	

**WITH
CIVIL APPLICATION NO. 742 OF 2015**

The State of Maharashtra	..Applicants
through its Department of Home	(Org. Respondents)
Mantralaya, Mumbai. & Ors.	
V/s.	
Mr. Jeevanrao Vishwanathrao Gore	..Respondent
	(Org. Petitioner)

**WITH
WRIT PETITION NO. 1171 OF 2015**

Mr. Babasaheb Devappa Mulik	..Petitioner
V/s	
State of Maharashtra	..Respondents
through its Department of Home	
Mantralaya, Mumbai. & Ors.	

**WITH
WRIT PETITION NO. 1172 OF 2015**

Mr. Manohar Vishnu Pashilkar	..Petitioner
V/s	
State of Maharashtra	..Respondents
through its Department of Home	
Mantralaya, Mumbai. & Ors.	

**WITH
WRIT PETITION NO. 1173 OF 2015**

Mr. Anandrao Yashwantrao Patil	..Petitioner
V/s	
State of Maharashtra	..Respondents
through its Department of Home	
Mantralaya, Mumbai. & Ors.	

Mr. V.M. Thorat, a/w Mr.Jitendra M. Mulik, for the Petitioner.
Mr. Sunil V. Manohar, AG a/w Mr. A.B. Vagyani, G.P. a/w
Mrs.M.P. Thakur, AGP for State/Respondents and for applicant
in CA No. 742 of 2015

**CORAM : ABHAY S. OKA &
C.V. BHADANG, JJ.**

DATE : 08TH MAY 2015.

ORAL JUDGMENT (PER A.S. OKA, J.)

1. The Parties were put to notice on the earlier date that these petitions will be disposed of finally at the admission stage. Detailed submissions were made by the learned counsel appearing for the petitioners and the learned Advocate General on behalf of the State Government. On 21st April, 2015 submissions were fully heard and the petitions were fixed for the judgment.

FACTS

2. The Maharashtra State Road Transport Corporation was

constituted under the provisions of the Road Transport Corporation Act, 1950 (for short “The said Act”). Section 3 of the said Act provides for establishment of Road Transport Corporations in the States. It is in exercise of the powers under Section 3 that the Maharashtra State Road Transport Corporation (for short “the said Corporation”) has been established. Section 5 of the said Act provides for constitution of Road Transport Corporations. The Sub-Section (1) of Section 5 provides that the management of the Corporations established under Section 3 shall vest in the Board of Directors(for short “the Board”). The Sub-Section (2) thereof provides that the Board shall consist of a Chairman and such other Directors, being not less than five and not more than seventeen, as the State Government may think fit to appoint. Section 8 confers powers on the State Government to remove the Chairman or any Director from their respective offices. The Rule making power under the said Act has been exercised by the State Government by framing the Maharashtra State Road Transport Corporation Rules, 1952 (for short “The said Rules”)

3. On 06th August 2012, the petitioner in Writ Petition No.326 of 2015 was appointed as the Chairman of the said

Corporation by the State Government. The petitioners in Writ Petition Nos.1171 of 2015, 1172 of 2015 and 1173 of 2015 were appointed as Non-official Directors on the Board of Directors of the said Corporation. Their appointment was made by a notification dated 06th September 2012.

4. The cause of action for filing these petitions under Article 226 of the Constitution of India has arisen on the basis of an order passed by the State Government on 23rd December 2014 in purported exercise of the powers under Rule 4A of the said Rules. By the said order, the State Government purportedly terminated the appointment of the petitioners in these petitions with effect from 22nd January 2015. In these petitions, the challenge is to the said order dated 23rd December 2014.

5. During the pendency of these petitions, the State Government amended the said Rules by the Maharashtra State Road Transport Corporation (Amendment) Rules, 2015 (for short "Amendment Rules"). By the Amendment Rules, Rule 3 of the said Rules was amended providing that the Hon'ble Minister in-charge of the Transport Department of the Government of Maharashtra shall be

the ex-officio Chairman of the Board of the said Corporation. By amending Writ Petition No.326 of 2015, a challenge has been incorporated to the validity of the Amendment Rules.

SUBMISSIONS OF THE PETITIONERS

6. The learned counsel appearing for the petitioner in support of Writ Petition No.326 of 2015 has invited our attention to the relevant provisions of the said Act and the said Rules. He pointed out that there are various provisions including Section 8 which distinguish between the Chairman of the Board of Directors and the Directors. He submitted that the Chairman can be removed only on the grounds specified in Sub-Section (1) of Section 8 and the power of simplicitor termination under Sub-Section (2) of Section 8 can be exercised only in respect of the Directors. He urged that the power of termination under Sub-Section (2) of Section 8 cannot be exercised in respect of the Chairman. Inviting our attention to Rule 4A of the said Rules, he would urge that the said Rule is applicable to the termination of the appointment of Directors and not to the termination of the appointment of the Chairman. He pointed out that even the said Rules make separate and distinct provisions applicable to the Chairman and to the other Directors. He urged that the said Act and the said Rules make a distinction between the

Directors and the Chairman.

7. He pointed out that in the reply filed by the State Government to the Writ Petition No.326 of 2015, it is contended that the doctrine of pleasure will be applicable to the posts of Chairman and Directors of the Board. He urged that as far as the doctrine of pleasure is concerned, the law has been laid down by the Apex Court in the case of **B.P. Singhal V/s. Union of India & Anr**¹ . He urged that in view of the law laid down by the Apex Court, the termination of the appointments can be made only for valid reasons by the State Government. He urged that there is no document placed on record to show that any valid reason has been recorded for passing the impugned order. He invited our attention to the additional affidavit filed by the State Government in which it is sought to be contended that after the petitioner in Writ Petition No.326 of 2015 was appointed as the Chairman of the said Corporation, the said Corporation suffered huge losses. He invited our attention to the affidavit in rejoinder. He pointed out that reasons have been incorporated therein for the loss suffered by the said Corporation which cannot be attributed to the Chairman and Members of the

¹ (2010) 6 SCC 331

Board of Directors. He invited our attention to paragraph 3 onwards of the rejoinder and submitted that the reasons invented by the State Government are mala fide.

8. He invited our attention to the provisions of the said Act and in particular Sections 26,32,33 and 36. He urged that plenary power of control over the said Corporation vests the State Government. The State Government has power to order an inquiry in accordance with the Section 36. Inviting our attention to Sections 32 and 33 as well as Section 26, he urged that the intention of the legislature is to ensure that the State Government retains full control over the Corporation established under the said Act.

9. His submission is that if the Minister in-charge of the Transport Department is made the ex-officio Chairman of the said Corporation, the said action will be ultra vires the provisions of the said Act. He urged that as the intention of the legislature was to ensure that the State Government should have a control over the said Corporation, the Minister in-charge of the Transport Department cannot be made ex-officio Chairman of the said Corporation inasmuch as the State Government may not be able to effectively

exercise the control over the said Corporation under the various provisions of the said Act. He urged that if the head of the Transport department is itself made the Chairman, the State Government will not be in a position to exercise its drastic powers of control over the said Corporation vested in it under the said Act. He, therefore, urged that the Amended Rules are in violation of the Article 14 of the Constitution of India, apart from being ultra vires the provisions of the said Act.

THE SUBMISSIONS OF THE LEARNED ADVOCATE GENERAL

10. The learned Advocate General appearing for the State Government invited our attention to the definition of Board under the said Act. He urged that the Chairman is also a Director of the Board of Directors and therefore, the provisions which are applicable to the Directors are also applicable to the Chairman of the Board of Directors. He submitted that under Sub-Section (2) of Section 8 there is a plenary power vesting in the State Government of terminating the appointment of the Directors after giving a notice for such period as may be prescribed by the Rules. He submitted that Rule 4A provides for a notice period of one month. He urged that this provision of Sub-Section (2) of Section 8 is based on the doctrine of pleasure and therefore, the State Government is entitled to

terminate the appointments of the Directors including the Chairman by exercising the power Sub-Section (2) of Section 8. He invited our attention to the Additional Affidavit of Shri. Prakash Kaluram Sabale, Deputy Secretary (Transport), Home Department in which reasons have been set out as to why the State Government in exercise of the aforesaid powers conferred by the statute decided to terminate the appointments of the petitioners. He relied upon the decision of the Apex Court in the case of **Krishna S/o. Bulaji Borate V/s. State of Maharashtra**².

11. Dealing with the challenge to the Amendment Rules, he urged that large number of statutory Corporations or Authorities are headed either by the Hon'ble the Chief Minister or Hon'ble Ministers. He stated across the bar that 14 such Corporations/Statutory authorities are headed by either the Hon'ble Chief Minister or Hon'ble Ministers in-charge of the concerned departments. He urged that even if the Hon'ble Minister is the head of the said Corporation that does not prevent the State Government from exercising its control over the said Corporation under the provisions of the said Act. He urged that Amendment Rules are not at all inconsistent with the provisions of the said Act. He relied upon the decision of the Apex Court in Krishna S/o. Bulaji Borate V/s. State of Maharashtra (2001) 2 SCC 441.

Court in the case of **B.Shankaranand V/s. Common Cause And Others**³. He would, therefore urge that no interference is called for in writ jurisdiction.

CONSIDERATION OF THE SUBMISSIONS

12. We have given our careful consideration to the submissions canvassed across the Bar. At the outset, we must note that though the submissions were made in all the four petitions on 21st April 2015, an Affidavit in reply is tendered in Writ Petition No.1171 of 2015, 1172 of 2015 and 1173 of 2015 of Shri.Prakash Kaluram Sabale today. The petitions have been fixed for the dictation of Judgment today. Before dealing with the submissions regarding the doctrine of pleasure invoked by the State Government, it will be necessary to deal with the submissions made as regards the petitioner in Writ Petition No.326 of 2015. Clause (aa) of Section (2) of the said Act defines “Board” to mean the Board of Directors of a Corporation.” Clause (bb) of Section 2 provides that “Director” means a member of the Board. Sub-Section (2) of Section 5 of the said Act read thus.

“(2) The Board shall consist of Chairman and such other Directors, being not less than five and not more than seventeen, as the State Government may think fit to appoint.”

³ (1996) 8 SCC 674)

13. Thus a Chairman is also a Director who is a member of the Board within the meaning of the said Act. Sub-Section(5) of Section 5 provides that the term of office and the manner of filling casual vacancies among the Directors shall be such as may be prescribed. Section 8 is material which reads thus :-

“Removal of Chairman and Directors from office :-

(1) The State Government may remove from office the Chairman or any other Director of the Corporation who-

(a) is or becomes subject to any of the disqualification mentioned in Section 6; or

(b) without excuse sufficient in the opinion of the State Government, is absent from more than four consecutive meetings of the Board.

Provided that no director appointed by the Central Government shall be removed from office without the concurrence of that Government.

(2) The State Government may terminate the appointment of any Director after giving him notice for such period (being not less than one month) as may be prescribed:

Provided that the appointment of a Director appointed by the Central Government shall not be terminated under this sub-Section without the concurrence of the Government.”

14. Section 8 is applicable to the Chairman and Directors. Sub-Section (1) thereof confers powers upon the State Government to remove from office the Chairman or any other Director of the Corporation in case he incurs a disqualification mentioned in Section 6 or in case he remains absent for more than 4 consecutive meetings of the Board. As pointed out earlier, on conjoint reading of clauses (aa) and (bb) of Section 2 with Sub-Section (2) of Section 5, the

Chairman of the said Corporation is also a Director of the Board. Therefore, sub-Section (2) of Section 8 which confers the power on the State Government to terminate the appointment of Directors after giving notice as prescribed is applicable to the Chairman as well.

15. It will be necessary to consider the said Rules. Rule 4 prescribes the term of the Chairman and non-official Directors as 3 years. In these petitions, we are dealing with the Chairman and non-official Directors. Rules 4 and 4A read thus:-

“4.Term of office of Chairman and non-official Directors :

(1) The term of office of the Chairman and non-official Directors shall be three years from the date of their appointment.

Provided that the Chairman and non-official Directors shall continue to hold office after the expiry of their term until their successors are appointed:

Proviso : Deleted.

(2) An outgoing non-official Director or Chairman shall be eligible for re-appointment.

4A Termination of appoint of Director :

The State Government may terminate the appointment of any Director after giving him one month's notice in writing in accordance with the provisions of sub-Section (2) of Section 8.”

16. Thus, there is a power vesting in the State Government to terminate the appointment of Directors of the said Corporation including of the Chairman after giving one month's notice in writing in terms of the provisions of Sub-Section (2) of Section 8 read with

Rule 4A. Therefore, the argument that sub-Section (2) of Section 8 and Rule 4A cannot be applied to the Chairman cannot be accepted. In the present case, the impugned order dated 23rd December 2014 is in fact a notice of one month which records that the appointment of the Petitioners shall come to an end with effect from 22nd January 2015.

17. The second question is as to what is the nature of the power under Sub-Section (2) of Section 8 read with Rule 4A. The stand of the State Government on this aspect is very clear which is in the first affidavit dated 20th January 2015 filed by Shri. Prakash Kaluram Sabale. Paragraph 7 of the said affidavit reads thus:-

7. I say and submit that the Act in question also provides general powers and the directions under Section 34 of the Act, to the Government to take all necessary actions and give all necessary directions. I say and submit that in this context what also assumes importance is that all the Non-official Directors including Chairman are appointed by the Government and they will serve on will and pleasure of the Government. I say and submit that all the Directors including the Chairman are appointed by the Government and as such serve on will of the Government. I say and submit that the doctrine of pleasure is well established concept and in accordance with which the State Government is always empowered to take action including the appointment and removal of its Non-official Directors including Chairman”.

(emphasis added)

18. Thus, the specific contention of the State Government is

that while passing the impugned order, the State Government has invoked the doctrine of pleasure by contending that the Chairman and Non-Official Directors are appointed by the Government who were to serve on will and pleasure of the Government. The stand taken in the affidavit tendered in other three petitions is the same. Therefore, the question is whether the State Government was justified in invoking the doctrine of pleasure in the facts of the case.

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."**

(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 & 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 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)

22. 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 has clearly held that the said power can be used reasonably and only for the public good.

23. As far as Writ Petition No.326 of 2015 is concerned, the first affidavit of Shri Prakash K. Sabale was filed on 20th January 2015. We have already made an extensive reference to what is stated in paragraph 7 thereof. It is pertinent to note that though in the affidavit it was stated that the impugned termination has been made by invoking the doctrine of pleasure, in the said affidavit no attempt is made to set out as to what were the valid reasons for invoking doctrine of pleasure and for withdrawing the pleasure. From paragraph 7 of the affidavit, it is clear that State Government is under an impression that by invoking the doctrine of the pleasure, the State Government has unfettered power to remove the Chairman and Non-official Directors of the said Corporation. Therefore, in the said affidavit, not even a case is made out that the pleasure is withdrawn for valid reasons and for the public good. On 20th January 2015, after hearing the Government Pleader, notice for final hearing was

issued by this Court in Writ Petition No.326 of 2015 and ad-interim relief was granted. Thereafter, further affidavit dated 17th February 2015 was filed by Shri.Prakash K. Sabale on behalf of the State Government. The said affidavit makes an interesting reading and to the said affidavit, copies of relevant notes in the relevant file in relation to the appointment of the petitioner in the Writ Petition No.326 of 2015 have been annexed. It is sought to be contended in the affidavit that the appointment of the petitioner in the said petition as the Chairman has been made by the State Government without considering the relevant factors which are required to be considered under the said Rules. We must note here, as reflected from paragraph 5 of the affidavit, there was a change of the political party in power in November 2014 and therefore, in paragraph 5 it is claimed that the new Government has taken a decision to terminate the appointments of the petitions. In paragraph 4 of the affidavit, it is stated thus:

4. I submit that for the financial year 2010-11 and 2011-12, the MSRTC was in profit to the extent of Rs. 29.29 crore and 63.97 Crores respectively. However, it is pertinent to note here that after the appointment of the Petitioner as Chairman of the MSRTC for the financial year 2012-2013 the MSRTC went under huge loss of Rs.428.83 crores. I submit that thereafter for the financial year 2013-2014 the situation worsen more and MSRTC went under huge loss to the tune of Rs.586.95 crores. It is pertinent to note that during the tenure of the Petitioner as Chairman of MSRTC it is found that no effective steps were taken to curtail the loss and bring the Corporation into profit. Hereto annexed and marked as Exhibit-III is the copy of extract of profit and loss accounts for years 2010-2011 to 2013 to

2014.

24. We may note here that along with the second affidavit, the State has produced relevant documents in relation to the appointment of the Chairman made by the earlier Government. However, the State Government has not produced any document to show that while issuing the impugned order, valid reasons were either recorded or considered by the the State Government. It is pertinent to note that in the first affidavit dated 20th January 2015, the State Government had not pleaded the existence of any valid reasons. The said affidavit is completely silent on the aspect of existence of such reasons. The said reasons are pleaded subsequently in paragraph 4 of the affidavit dated 17th February 2015 which is quoted above. Not a single document is placed on record to show that any valid reason was recorded by the State Government while passing the impugned order. Nothing prevented the State Government from producing the relevant documents for the perusal of this Court to show that withdrawal of pleasure was for a valid reason and for the public good. What is stated in the subsequent affidavit appears to be clearly an afterthought. In any event, reasons cannot be supplied by way of an affidavit. In view of the law laid

down by the Apex Court in the case of B.P.Singhal, the State Government could have exercised power of the withdrawal of pleasure only for the public good and for valid reasons. Thus, in the present case, it is impossible to record a finding that the impugned order has been passed for any valid reasons. Without producing any contemporaneous evidence to show that any valid reasons were recorded while passing the impugned order, by an affidavit, by way of an afterthought, certain reasons are sought to be pleaded. The petitioner in the Writ Petition No.326 of 2015 has filed a rejoinder explaining as to why the said Corporation was running in losses. Therefore, the impugned order cannot be sustained as there is no material on record to show that it was passed for valid reasons and for the public good.

25. However, as far as the Chairman is concerned, there is another aspect namely the coming into force of the Amendment Rules. Rule 3 of unamended Rules and in particular Sub-Rule (2) provided that the Chairman shall be an eminent personality with background of industry and finance. By the Amendment Rules, Sub Rule (2) has been deleted and substituted by following:-

“(2) The Minister-in-charge of the Transport Department of the Government of Maharashtra shall be the Ex-officio Chairman of the Board.”

Thus, the effect of the Amendment Rules is that the Minister in-charge of the Transport Department shall be the ex-officio Chairman of the Board of the said Corporation.

26. At this stage, it will be necessary to go back to the provisions of the said Act, and in a particular Section 5. The said section does not lay down any particular qualification to the posts of the Chairman and Directors. Section 6 provides for disqualifications for being chosen as or from being continued as a Director of a Corporation. Sub-Section (2) of Section 5 confers powers upon the State Government to constitute the Board consisting of the Chairman and other Directors. The State Government has exercised the Rule making power under Section 44 of the said Act and framed the said Rules which prior to coming into force of the Amended Rules provided that the Chairman shall be an eminent personality with background of industry and finance. The State Government by amending the said Rule has provided that the Minister in-charge of the Transport Department shall be the ex-officio Chairman of the Board. As far as the power vesting in the State to make such a Rule is concerned, we do not see any difficulty.

27. The perusal of the provisions of the said Act shows that the State Government has been conferred wide powers to control the functioning of the said Corporation. The said Corporation cannot borrow money without the prior approval of the State Government. The Corporation is under obligation to submit a budget for the approval of the State Government. State Government has wide powers as regards the grant of approval to the budget. The general Rule incorporated in Sub-Section (2) of Section 32 is that the Corporation cannot be spend any amount unless the same is covered by the current budget grant approved by the State Government. The State Government under Section 34 has a powers to issue general instructions to the said Corporation which are binding on it. Section 36 provides for a power to order inquiries. Section 37 also confers wide power of the State Government to control a part of the undertaking of the such Corporations. What is provided by Amended sub Rule 2 of Rule 3 is that the Hon'ble Minister of the State Government of the Transport Department becomes the ex-officio Chairman of the said Corporation. Merely because a Minister is the Chairman of the said Corporation, we fail to see as to how the plenary powers of the State Government conferred under the said Act to control the said Corporation are affected in any manner. The

Hon'ble Minister of the Transport Department cannot exercise powers of the State Government as the Chairman. There are Rules of the business which are framed under the Constitution of India which do not permit the Minister-in-charge of the Transport Department to exercise powers of the State Government under the said Act. Hence, though the Amendment Rules provide that the Minister-in-charge of the Transport Department will be the ex-officio Chairman of the said Corporation, the powers of the State Government to control the said Corporation which are conferred by the said Act are not at all affected. Hence, there is no substance in the contention of the learned counsel appearing for the petitioners that the amended sub-Rule (2) of Rule 3 of the said Rules is ultra vires the provisions of the said Act. We see no arbitrariness in amended Sub-Rule (2) of Rule 3.

28. As stated by the learned Advocate General, there are various statutory Corporations such as the Maharashtra State Agricultural Development Corporation, the Maharashtra Agro Industrial Development Corporation, the Maharashtra State Tourism Development Corporation, the Maharashtra State Road Development Corporation as well as various Irrigation Development Corporations which are headed by the Hon'ble Ministers as the ex-officio

chairpersons. Thus, we are unable to accept the submissions canvassed in support of the challenge to the Amendment Rules.

29. Thus, to summarize our conclusions, the order dated 23rd December 2014 is bad in law and is required to be set aside. However, as far as the Chairman of the said Corporation is concerned, the Amendment Rules have come into force which have been published in the Government Gazette dated 11th March 2015. Therefore, as far as the petitioner in Writ Petition No.326 of 2015 is concerned, even if the order dated 23rd December 2014 is set aside, we cannot permit the petitioner to continue in the post of the Chairman as in the light of the Amendment Rules, the Hon'ble Minister in-charge of the Transport Department will be the ex-officio Chairman of the Board of Directors of the said Corporation. Though the impugned order is liable to be set aside, the relief of the reinstatement as the Chairman of the said Corporation cannot be granted to the petitioner in the Writ Petition No.326 of 2015.

30. Therefore, we dispose of the petition by passing following order.

: ORDER :

- i) The impugned order/notice dated 23rd December 2014 is hereby quashed and set aside;
- ii) As a result of the setting aside the impugned order, the petitioners in Writ Petition No.1171 of 2015, 1172 of 2015 and 1173 of 2015 shall continue as non-official directors of the said Corporation as per the order of their appointment;
- iii) As far as the petitioner in Writ Petition No. 326 of 2015 is concerned, in view of the provisions of the Maharashtra State Road Transport Corporation (Amendment) Rules, 2015 he ceases to be the Chairman of the said Corporation as the Minister in-charge of the Transport Department of the State Government shall be the ex-officio Chairman;
- iv) Accordingly, Rule is made partly absolute on above terms. Civil Application No.742 of 2015 does not survive and is accordingly disposed of.
- v) All concerned to act upon an authenticated copy of this Judgment and Order.

At this stage, the learned counsel appearing for the petitioners seeks continuation of ad-interim relief granted in Writ Petition No.326 of 2015. The said prayer is opposed by the AGP. The

ad-interim relief is operative from 20th January 2015 as a result of which the petitioner in Writ Petition No.326 of 2015 is functioning as the Chairman of the said Corporation. As the Court is closing for summer vacation, a copy of this judgment and order may not be immediately available. Therefore, we direct that the ad-interim relief granted on 20th January 2015 shall continue to operate for a period of six weeks from today. On the prayer made by the learned AGP, the operation of the operative order passed in Writ petition No.1171 of 2015, 1172 of 2015 and 1173 of 2015 shall remain stayed for the period of six weeks from today.

The learned AGP seeks Stay of the order passed today of continuing the ad-interim relief. The said prayer is rejected.

[C.V. BHADANG, J.]

[ABHAY S. OKA, J.]