

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 623 of 2019**

(Arising out of order dated 19.09.2019 passed by the learned Single Judge in WPC No.1989/2019)

- State of Chhattisgarh Through - The Joint Secretary, Department of Aadim Jaati Tatha Anusuchit Jaati, Vikas Vibhag, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Chhattisgarh.

---- Appellant

Versus

- Ramji Bharti S/o Late Shri S.D. Bharti, Aged about 48 Years Chairperson / President, Rajya Anusuchit Jati Aayog, R/o Poonam Colony, Wardhman Nagar, Police Station City Kotwali, Rajnandgaon, Tahsil and District - Rajnandgaon Chhattisgarh.

---- Respondent

For Appellant/State	:	Shri Siddharth Dubey, Deputy Government Advocate
For Respondent	:	Shri UNS Deo, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P. R. Ramachandra Menon, C.J.

17.02.2020

1. Correctness of the verdict passed by the learned Single Judge in quashing Annexure-P/1 order passed by the Government on 28.05.2019, terminating the writ petitioner from the Office of President of Chhattisgarh Rajya Anusuchit Jati Ayog; thus allowing the writ petition, is put to challenge in this appeal.
2. Heard Mr. Siddharth Dubey, the learned Deputy Government Advocate representing the Appellant/State as well as Mr. U.N.S. Deo, learned counsel for the Respondent at length.

3. The crux of the dispute raised before the learned Single Judge was that appointment of President / Chairperson to Chhattisgarh State Anusuchit Jati Ayog is a 'tenure appointment' by virtue of Section 4(1) of the Chhattisgarh (Rajya) Anusuchit Jati Ayog Adhiniyam, 1995 (for short, 'the Act'). The writ petitioner, after completion of the initial tenure of 'three' years, was re-appointed from 10.08.2018 vide Annexure-P/5 and since he joined the Office on 13.08.2018, he was entitled to continue for a minimum period of 'three' years by virtue of Section 4(1) of the Act. However it was quite illegally terminated as per Annexure-P/1 order dated 28.05.2019, which was put to challenge in the writ petition. The order passed by the Government was sought to be defended by the State, pointing out that, as contained in Annexure-P/5, the appointment was only 'until further orders' and this being the position, it was open for the Government to have it terminated at any time. It was also contended by the State that the initial appointment could only be as a 'member' and only after appointment as a 'member', can there be any further appointment as President / Chairperson, by virtue of scheme of the statute.

4. A threadbare analysis was made by the learned Single Judge with regard to the above two contentions, with specific reference to various provisions of the statute, particularly, the definition of the term '**Member**' as given under Section 2(b) of the Act; Section 3 dealing with the '**Constitution of State Commission for Anusuchit Jati**' and Section 4 pertaining to the '**term of office and conditions of service of Chairperson and Members**'. Various Rulings rendered by the Apex Court have also been referred to, as cited in paragraphs 10 to 15 of the judgment. The learned

Single Judge held that, by virtue of inclusive definition of the term 'Member' under Section 2(b) of the Act, it includes the 'Chairperson' as well. Once a person is appointed as above, he is entitled to have a tenure posting of 'three' years by virtue of Section 4(1) of the Act although, he could be removed on any eventually as contemplated under Section 4(3) of the Act, subject to the rider as given in the 'proviso' to the effect that an opportunity of hearing shall be given before such removal. It was observing that no such course was pursued by the Government, that Annexure-P/1 was interdicted and the writ petition was allowed.

5. The scope of the above provision has already been subjected to analysis by this Court on an earlier instance in Writ Appeal No. 375 of 2019 (*State of Chhattisgarh & Anr. v. Smt. Padma Chandrakar & Anr.*), vide judgment dated 15.10.2019. By virtue of the law declared by this Court, we find that Annexure-P/1 judgment passed by the learned Single Judge is perfectly in order and not assailable under any circumstance.
6. The learned counsel representing the State submits that the Appellant is constrained to file this appeal only because of the observation made by the learned Single Judge in 'paragraph 8' with reference to the meaning of the term 'Member' under Section 2(b) of the Act, holding that it is an inclusive definition and that it takes in, a Chairperson as well.
7. In fact, the learned Single Judge considered the submission made across the Bar from the part of the State, who contended that unless a person is appointed as a 'Member', he cannot be appointed as a 'Chairperson'. The said contention raised by the State was held as wrong and misconceived.

The learned counsel for the State submits that the apprehension is that, if a person is directly appointed as a 'Chairperson', the purpose of the statute may be defeated; insofar as among the 'three' non-official members, the Chairperson has to be identified as having special knowledge as envisaged under Section 3(2)(a) of the Act and hence there is a chance to have a better person to be left out.

8. We do not find any basis for the said apprehension. Appointing Authority is none other than the Government. It is for the Government to identify the most suitable person, among the 'three' non-official members, who have special knowledge, to be appointed as the 'Chairperson'. Insofar as the power of appointment is vested with the State, it is clearly open for the State to identify the best person among the 'three' members, to be appointed as a 'Chairperson'. Hence the apprehension expressed is wrong and unfounded. There is no merit in the appeal, it is dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge