

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 5198 of 2023

Reserved On: 17.03.2023

Date of Decision: 28.03.2023

Manisha Gulati

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Chetan Mittal, Senior Advocate
with Mr. Mayank Aggarwal, Advocate
for the petitioner(s).

Mr. Amit Jhanji, Senior Advocate
with Mr. Navdeep Chhabra, Senior Deputy Advocate General,
Punjab and Mr. Shashank Shekhar Sharma, Advocate,
for the respondents.

Anil Kshetarpal, J.

1. After having heard the learned counsel representing the parties at length and with their able assistance, after perusal of the paper-book as well as the written note of submissions, this Court is of the considered view that the following question requires adjudication:-

“If the Legislative Act enables the State, in the exercise of its executive powers, to remove the nominated Chairperson or the office bearers, who were appointed exclusively on political considerations, on the sole ground of their unsuitability, then, whether the applicability of doctrine of pleasure can be interpreted to be excluded from such Act?”

2. The relevant facts, in brief, are required to be noticed before proceeding further. The State of Punjab enacted the Punjab State Commission for Women Act, 2001 (hereinafter referred to as “the 2001

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Act”) which received the assent of the Governor of Punjab on 19.04.2001. As per the preamble, the provision for constitution of Commission has been envisioned with a view to improve the status of women in the State and to enquire into the unfair practices affecting women and for the matters relating therewith or incidental thereto. Section 3 of the 2001 Act provides that the government shall, by notification in the Official Gazette, constitute a body to be known as the “Punjab State Commission for Women” (hereinafter referred to as “the PSCW”). On the careful perusal of Section 3 of the 2001 Act, it is evident that the government has the power to nominate a Chairperson who shall be an eminent woman committed to the cause of the women. The only requirement is that the government, before nominating the Chairperson, shall consult the women organizations within the State of Punjab. There is absolutely no other restriction or condition on the power of the government to nominate. Section 4 of the 2001 Act provides that the Chairperson and every other non-official member shall hold the office for a period of three years. Section 4(3) of the 2001 Act starts with a non-obstante clause which enables the government to remove the person holding the office of the Chairperson or any other member on the conditions laid down therein including clause (f) of Section 4(3) of the 2001 Act. It is considered appropriate to extract hereunder Section 4 of the 2001 Act because the interpretation of the aforesaid provision is pivotal to the decision of the case, the same is as follows:-

***“4. Terms of office and conditions of service of
Chairperson and members.***

(1) The Chairperson and every non-official member shall

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hold office for a period of three years. Terms of office and conditions of service of Chairperson and members.

(2) The Chairperson or a non-official member may, at any time, by writing and addressed to the Government, resign from the office of the Chairperson or of the office of the member.

(3) Notwithstanding anything contained in subsection (1), the Government may remove a person from the office of the Chairperson or member if, that person:-

(a) becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; (c) becomes of unsound mind and stands so declared by a competent court; (d) Refuses to set of becomes incapable of acting; (e) is, without obtaining leave of absence from the Commission, absents from three consecutive meetings of the Commission;

(f) in the opinion of the Government, has so abused the position of the Chairperson or member as to render that person's continuance in office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such Chairperson or member;

Provided that, no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy caused under the sub-section (2) or subsection (3) or in any other manner, shall be filled in, as soon as may be, by a fresh nomination by the Government; and the person so nominate, shall hold office for the remainder of the term of office of the person in whose vacancy such person has been nominated, would have held office, if the vacancy had not

occurred; Provided that, if the vacancy of a member other than that of the Chairperson occurs within six months preceding the date on which the terms of office of the member expires, the vacancy shall not be filled in.

(5) The honorarium, if any, and allowances payable to, and the other terms and conditions of holding the office of the Chairperson and the members shall be such, as may be prescribed.”

3. Sections 10 and 11 of the 2001 Act, also being relevant, are extracted as under:-

“10. Powers and functions of the Commission.-

(1) The Commission shall, while investigating any matter under this Act, have all the powers of a civil court trying a suit and, in the particular, in respect of the following matters, namely:-

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) Requiring the discovery and production of any document;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public record or copy thereof from any court or office;

(e) Issuing commissions for the examination of witnesses and documents; and

(f) Any other matter which may be prescribed.

(2) The Commission shall perform all or any of the following instructions, namely:-

(I) Advise the Government on legislative and developmental policies affecting women;

(ii) Undertake necessary steps at the Government and

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public level to protect constitutional and legal rights of women in general and poor amongst them in particular;

(iii) Monitor the implementation of laws and welfare measures concerning women and initiate action for legal and administrative reforms to improve status of women;

(iv) Investigate suo moto or on complaint into the discrimination and victimization of women and recommend remedial action to the Government and initiate judicial proceedings wherever necessary for effective remedy;

(v) Conduct studies and research into the problems of women and report the same to the Government for appropriate action;

(vi) Demand prosecution in offences committed against women and assist prosecution with evidence and legal services;

(vii) Inspect police stations, look-ups, sub-jails, rescue homes or other places of custody where women are kept to find out the facilities and treatment provided to women and seek remedial action from the appropriate authorities;

(viii) Conduct public interest litigation on behalf of groups of women in general, and in special, in an individual case of a women, who suffer from injustice or discrimination; and provide legal aid and rehabilitation in deserving cases;

(ix) Approach and assist the courts on behalf of women to ensure justice in matrimonial disputes;

(x) Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;

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(xi) Present to the Government, annually and at such other times as the Commission may deem fit, reports upon the working of the safe-guards referred to in the proceeding clauses;

(xii) Make in such reports recommendations for the effective implementation of the aforesaid safeguards for improving the conditions of women by the Union or any State;

(xiii) Review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae inadequacies or shortcomings in such legislation; and

(xiv) Any other matter which may be referred to it by the Government.”

11. Government to consult the Commission.- The Government shall consult the Commission on all major policy matters affecting women.”

4. The petitioner was nominated as the Chairperson of the PSCW for a period of three years w.e.f. 13.03.2018 to 18.03.2021. On 18.09.2020, the term of the petitioner was extended for another three years w.e.f. 19.03.2021 to 18.03.2024. On 16.03.2023 “Aam Admi Party” came in power. Thereafter, on 31.01.2023, the extension granted to the petitioner was withdrawn on the following grounds:

- i) There is no provision for extending the term beyond three years;
- ii) No person can be appointed on such an important post without following the procedure;
- iii) It was a bonafide mistake to extend the term of the

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petitioner.

5. The petitioner laid challenge to her removal by filing Civil Writ Petition No. 2712 of 2023 which was disposed of with the following order:-

“Learned senior counsel representing the State of Punjab, on instructions from Smt. Bhupinder Kaur, Under Secretary, Department of Social Security, Women and Child Development, Punjab, submits that the impugned order dated 31.01.2023 will be withdrawn today itself. However, he submits that the State proposes to pass an appropriate fresh order, in accordance with law.

In view of the aforesaid facts, the writ petition stands disposed of.

All the pending miscellaneous applications, if any, are also disposed of.”

6. In terms of the statement made before the Court, the order dated 31.01.2023 was withdrawn, however, on 07.03.2023, the State government has passed the following order:-

“In supersession of Punjab Government Notification No. 2/31/1991-2WCD/2179 dated 18.09.2020, the Governor of Punjab is pleased to withdraw extension of term granted to Mrs. Manisha Gulati, 12 Rose Avenue, Maqbool Road, Amritsar (Punjab) as Chairperson of Punjab State Women Commission, Chandigarh, with immediate effect.”

7. On the very first date of hearing, the State entered appearance and undertook to assist the Court.

8. On the one hand, the learned senior counsel representing the petitioner submits that the government’s power of appointment includes the power of extension. He submits that the petitioner cannot be removed

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except on the grounds specified in Section 4 of the 2001 Act and the doctrine of pleasure cannot be invoked once there is a specific provision for removal under the statute. He further submits that no opportunity of hearing has been granted to the petitioner before her removal and the impugned notification is contrary to the undertaking given before this Court on 15.02.2023. In the end, it is contended that the impugned order is politically motivated, pre-determined and suffers from malafide.

9. On the other hand, the learned senior counsel representing the State has submitted that the appointment of the petitioner to the office of the Chairperson, PSCW, is by way of nomination (which is distinct from appointment), therefore, she holds the office at the pleasure of the government and has no fundamental or statutory right to continue beyond the pleasure of the State government. It is further submitted that the principles of natural justice are not required to be followed while withdrawing the pleasure as no stigmatic order has been passed. It is contended that once a person has been nominated to a particular office on account of political consideration, he/she can be removed on the basis of the same considerations as well. It is contended that nothing prevents the State government from removing such person from the office of the Chairperson once the pleasure of the State government ceases to exist. It is also submitted that the government is not required to record the reasons for removal of the Chairperson. Once the power has been conferred on the government to nominate an individual to a particular post, the said power also includes the power to suspend, remove or dismiss that person. While drawing the

attention of the Court to Section 19 of the Punjab General Clauses Act,

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1956, it is contended that the Court has the power to remove any officer.

10. At the outset, it is required to be clarified that the 1956 Act, though, available on the internet has been notified by the State of East Punjab, as it exists in Pakistan. In the State of Punjab, *pari passu* to the General Clauses Act, 1897 applicable to the Union of India, the Punjab General Clauses Act, 1898 (hereinafter referred to as “the 1898 Act”), is applicable.

11. Basically, the power to remove a nominated member or office bearer or a representative from the office can be examined in three different situations. Firstly, where the power to remove/dismiss is restricted/regulated under the Act of the legislature. Secondly, where the unconditional power to remove is conferred upon the State Government under the Act or the Constitution of India. Thirdly, where the act is silent and neither there are restrictions on the removal nor explicit power to remove has been given. In the last situation, one can invoke the provisions of the 1898 Act. This case falls in category No.1. Hence, it becomes important to carefully study, examine and analyze the enabling powers conferred on the State Government to remove or recall a nominated Chairperson of the PSCW.

12. Before proceeding further, it would be appropriate to take note of the fact that as per Section 3 of the 2001 Act, the State is required to nominate an eminent woman committed to the cause of women after consultation with the women organizations within the State of Punjab. In other words, the government has the power to nominate any person irrespective of the qualifications, experience etc. The government while

nominating the Chairperson and the other office bearers exercises the

doctrine of pleasure. Even the proviso to Section 3 of the 2001 Act does not specify the name and particulars of the women organizations which are required to be consulted before nominating the Chairperson. Hence, the powers conferred on the State are unrestricted and unbridled.

13. Now, it becomes incumbent for the Court to carefully analyze the statutory provision. Sub-Section (1) to Section 4 of the 2001 Act provides that the Chairperson and every non-official member shall hold the office for a period of three years. It nowhere provides that the minimum tenure or term of the Chairperson or the non-official member shall be for a period which is not less than three years. The statute has also not used the word “ordinarily” to express its intention of giving a security/surety of tenure to the Chairperson or the non-official member. On a careful perusal of Section 4(3) of the 2001 Act, it is evident that this Sub-Section has an overriding effect over the provisions of Section 4(1) of the 2001 Act, which provides that they shall hold the office for a period of three years. Clauses (a), (b), (c), (d) and (e) of Section 4(3) of the 2001 Act are not relevant for the purpose of this case. On carefully evaluating the relevant Clause (f) to Section 4(3) of the 2001 Act, it is evident that if the Chairperson or the member, in the opinion of the government, has indulged in the any of the below mentioned activities, then the government may remove him. The constituents of Clause (f) to Section 4(3) of the 2001 Act includes - (i) if in the opinion of the Government, he has so abused the position of the Chairperson or a member so as to render that person’s continuance in office detrimental to the public interest, (ii) is otherwise unfit or (iii) unsuitable to continue as such as a Chairperson or a member. All these disqualifications

are prefaced by the opinion of the government. If read in continuity, the Clause (f) to Section 4(3) of the 2001 Act shall read as under:-

“the government may remove a person from the office of a Chairperson or a member, if that person, in its opinion, is unfit and unsuitable to continue as such Chairperson or member.”

14. It is significant to note that the various sub clauses in Clause (f) to Section 4(3) of the 2001 Act are separated by the word “or” in order to clarify that the intention of the legislature is to provide for independent grounds. To read the language of Clause (f) in any other manner would be doing injustice to the object of the statute. Once there is a provision with regard to the disqualification/removal of the office holder or becoming unfit or unsuitable, solely based upon the opinion of the government, then, it is obvious that the doctrine of pleasure has been incorporated by the legislature in the statute itself. On the analysis of Section 4(3) of 2001 Act, it is evident that no material has been brought on record to prove that the State is denuded or robbed off its power under the doctrine of pleasure. Thus, the afore-framed issue is answered in negative and it is held that once the statute provides for wide and discretionary powers of removal to the State, then doctrine of pleasure is implicit in the Act and it has to be interpreted accordingly.

15. However, the Court cannot ignore the proviso added to Section 4(3) of the 2001 Act which lays down that no person shall be removed under this clause unless that person has been given a reasonable opportunity of being heard in the matter in order to ensure that the principles of natural justice are complied with. Hence, the argument of the learned State counsel

that the principles of natural justice are not required to be followed is incorrect.

16. Now, the question which arises is “what shall be the consequences of failure to give an opportunity of hearing as envisaged in the statute?” Before examining this, it becomes significant to examine the pleadings. The petitioner was nominated as a Chairperson of the PSCW in the year 2008 when the Congress was the then ruling party. The tenure of the petitioner was also extended when she continued to be in the ruling party. As already noticed, after the general elections, the government was formed by the Aam Admi Party in the month of March, 2022. Moreover, the experience shows that the appointment to such offices is predominantly based on the political affiliations. At present, the Congress party is in opposition. It appears that the petitioner, being a political nominee of the then ruling party, is not in friendly/good terms with the present political party. For that reason, the political party presently in power wishes to make its own nominations. On the perusal of the provisions of the 2001 Act, it becomes evident that Section 10 defines the powers and functions of the PSCW which includes advising the Government on legislative and developmental policies affecting the women, monitoring the implementation of laws and welfare measures concerning women and initiate action for legal and administrative reforms to improve the status of the women, to conduct studies and research into the problems of women and report the same to the Government for appropriate action. Further, the functions include inspection of police stations, look-ups, sub-jails, rescue homes or other places of custody where women are kept to find out the facilities and treatment

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provided to women and seek remedial action from the appropriate authorities, to conduct public interest litigation on behalf of groups of women in general, and in special, in an individual case of a women, who suffer from injustice or discrimination; and provide legal aid and rehabilitation in deserving cases, to approach and assist the courts on behalf of women, to ensure justice in matrimonial disputes, to present to the Government, annually and at such other times as the Commission may deem fit, reports upon the working of the safe-guards referred to in the proceeding clauses and to make reports or recommendations for the effective implementation of the aforesaid safeguards for improving the conditions of women by the Union or any State. As per Section 11 of the 2001 Act, the government is required to consult the Commission on all the major policy matters affecting women. In such a situation, if the PSCW and the government is not working at tandem, chances are that the PSCW will not be in a position to discharge its functions or exercise its powers effectively so as to ensure the protection and upliftment of women. In such circumstances, it becomes important in the interest of justice that the various organizations/institutions/other bodies work in a harmonious manner in order to achieve the object of the statute as envisioned by the legislature.

17. The government's intent in removing the petitioner is clear from the fact that on 31.01.2023, the extension of the tenure given by the previous ruling party was withdrawn. Thereafter, a writ petition was filed challenging the order withdrawing the extension. Even on 15.02.2023, the government, while withdrawing the previous order passed on 31.01.2023, made its intention clear. On 07.03.2023 i.e. within a period of less than

three weeks, a fresh order was passed. The petitioner herself has annexed the transcript of an interview of one of the ministers publically stating that the government will proceed again for the removal of the petitioner from the office of the Chairperson of the PSCW. It would be noted here that the Supreme Court while examining the rights of the nominated members to the Municipal Committee in *Om Narain Agarwal and Others v. Nagar Palika, Shahjahanpur and Others (1993)2 SCC 242* held that if the initial nomination itself depends on the pleasure and the subjective satisfaction of the government, then the government has the power to withdraw the nomination, the moment the pleasure of the government comes to an end. The Chairperson or the non-official nominated members shall hold the office only during the pleasure of the government. The Supreme Court also examined the requirement of the fulfillment of the principles of natural justice before removal of such nominated office bearers. The Supreme Court held that there is no requirement to follow the principles of natural justice as the orders are passed on the political considerations and such orders are neither stigmatic nor illegal. In para 20 of the aforesaid judgment, the Supreme Court even discussed that with the change of political dispensation, after general elections, there was nothing wrong for the succeeding political party to nominate candidates of its own choice. However, Section 4 of the 2001 Act do provide for grant of an opportunity of hearing before the order of removal is passed.

18. Now, the Court proceeds to answer the crucial question already framed i.e. what shall be the effect of violation of the principles of natural justice as incorporated in the statute. At this stage, it would be appropriate

to take note of the precedents on the subject. In para 13 and 15 of the judgment passed by the Supreme Court in *Chairman, Board of Mining Examination and Another v. Ramjee (1977) 2 SCC 256*, the Court examined the effect of violation of the principles of natural justice and the Hon’ble Mr. Justice V.R. Krishna Iyer, in his peculiar style, wrote as under:-

“13. The last violation regarded as a lethal objection is that Board did not enquire of the respondent, independently of the one done by the Regional Inspector. Assuming it to be necessary, here the respondent has, in the form of an appeal against the report of the Regional Inspector, sent his explanation to the Chairman of the Board. He has thus been heard and compliance with Regulation 26, in the circumstances, is complete. Natural justice. is no unruly horse, no lurking land mine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. 'Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be finical nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt – that is the conscience of the matter.

14. XXXX XXXX XXXX XXXX XXX

15. These general observations must be tested on the concrete facts of each case and every miniscule violation does not spell illegality. If the totality of circumstances satisfies the Court that the party visited with adverse order has not suffered from denial of reasonable opportunity the Court will decline to be punctilious or fanatical as if the rules of natural justice were

sacred scriptures”

19. Recently, a three Judges Bench of the Supreme Court, in para 39 of the judgment in ***State of Uttar Pradesh v. Sudhir Kumar Singh and Others 2020 SCCOnline 847***, held as under:-

“39. An analysis of the aforesaid judgments thus reveals:

(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

(5) The “prejudice” exception must be more than a mere

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apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”

20. From the above extracted portion, it is evident that the Supreme Court, after examining the case law on the subject, has culled out the tests to be considered before passing an order on the violation of the principles of natural justice.

21. If we apply the aforesaid test in the facts of the present case, it is evident that the petitioner’s case, though, is a case of violation of the right of being heard, which is also incorporated in the 2001 Act but it still fails to satisfy test No.1, 2 and 5.

22. Now, let us analyze the arguments of the learned senior counsel representing the petitioner. The first argument does not survive in the present case because it has not been contended by the government that they do not have the power to extend the period. Hence, this argument does not survive.

23. The next argument of the learned senior counsel also does not have any substance in view of the foregoing detailed discussion. The case of the petitioner falls in the contingency provision as under clause (f) of Section 4(3) of the 2001 Act. The judgment relied upon by the learned senior counsel in ***Suman Dahiya v. State of Haryana and Others (Civil Writ Petition No.16788 of 2015, decided on 17.05.2016)*** is not applicable because on a careful reading, therefore, it is evident that the order was not set aside on the ground of violation of the principles of natural justice. In that case, the government had reserved to itself the right to curtail or extend

Women Commission which was the challenge before the High Court. The Division Bench neither discussed the doctrine of pleasure nor the attention of the Court was drawn thereto. In fact, on reading of the judgment, it is evident that the Court found that the orders passed on 04.08.2015 and 25.08.2015 were a bundle of contradictions. Hence, the aforesaid judgment shall not be applicable, though, the SLP filed against it was dismissed.

24. The next argument of the learned senior counsel is with regard to the fact that the doctrine of pleasure cannot be invoked once there is a specific criteria of removal under the statute. The learned senior counsel relies upon the judgment rendered by the Supreme Court in ***B.P.Singhal v. Union of India and Another (2010) 6 SCC 331*** and the judgment rendered by the Chhatisgarh High Court in ***Smt.Padma Chandrakar and Others v. State of Chhatisgarh and Others (WPC No. 408 of 2019, decided on 02.05.2019)***. This Court has analyzed Section 4 of 2001 Act in detail and found that clause (f) of Section 4(3), in substance, is a pleasure doctrine because the government after forming an opinion with regard to the suitability of continuance of the Chairperson or the member in the office can order their removal.

25. With respect to the argument of the learned senior counsel representing the petitioner that the doctrine of pleasure cannot be invoked once there is a specific provision of removal under the statute, it may be noticed that this Court, on the analysis of the statute, has found that the doctrine of pleasure is incorporated and inbuilt in Section 4(2)(f) of the 2001 Act. This Court has also carefully read the judgment of the five Judges Bench in ***B.P.Singhal's case (supra)***. In para 70, the Court itself held that

there is an intrinsic difference between the office of a Governor and the offices of Ministers and Attorney General. While making a distinction, the Supreme Court held that the Governor is neither an employee nor an agent of the Union Government and his removal on the ground that he is not in accord/sync with the policies and ideology of the Union Government or the party in power at the Centre has lost confidence in him is not justified. While deciding the case, the Supreme Court has also observed that the scope of judicial review in such matters is limited and keeping in view the significant position of the Governor as provided under the Constitution, the law has been expounded. Hence, the aforesaid judgment is not applicable to the facts of the present case.

26. This Court has also carefully read the judgment in ***Smt. Padma Chandrakar's case*** (*supra*) wherein the members of Rajya Mahila Ayog were removed by the State Government. In the aforesaid judgment, Section 4 of the Chhatisgarh Rajya Mahila Ayog Adhiniyam, 1995, has been extracted. Clause (iv) of Section 4(3) of the Chhatisgarh Rajya Mahila Ayog Adhiniyam, 1995, is different from the corresponding provision in the 2001 Act. Hence, the Court held that the doctrine of pleasure cannot be given an overriding effect over the statute governing the field.

27. The next argument of the learned counsel representing the petitioner with regard to the notification being contrary to the undertaking is factually incorrect as is evident from the order dated 15.02.2023, which has been extracted above. There is no undertaking by the State that no fresh order has been passed. Rather the learned counsel representing the State has

made a categoric statement that the State proposes to pass an appropriate

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fresh order.

28. The next argument of the learned counsel representing the petitioner is with regard to the impugned order being politically motivated, pre-determined and suffering from malafides. As already noticed, the petitioner herself was appointed on account of political affiliations. She has not been selected or appointed after following a competitive process or on merit. In such circumstances, she herself, being a beneficiary of her political associations, is not justified in complaining about the same.

29. As regards the allegation of malafides, the public statement of the Minister of the State government is only to the effect that the High Court has disposed of the earlier writ petition and they will remove the petitioner in accordance with law. That by itself does not mean that the order is malafide and pre-determined. The order of removal of the petitioner is neither punitive nor it results in removal of the petitioner from service. Though, the petitioner was holding the public office but she was not holding a civil post. In such circumstances, the petitioner cannot claim that while removing her from the post, the government is required to follow the provisions of Article 311 of the Constitution of India.

30. Based on the foregoing discussion, this Court is of the considered opinion that the impugned order does not require interference. Consequently, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

March 28, 2023
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No