

**(2003) 08 KAR CK 0059**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 32978 of 2003**

Doddappa S. Kalaginamani

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

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**Date of Decision :** 07-08-2003

**Acts Referred:**

Karnataka Town and Country Planning Act, 1961 — Section 4 C, 4 D (2)

**Citation :** (2003) ILR (Kar) 3846 : (2003) 4 KCCR 2721

**Hon'ble Judges :** Chandrashekaraiah, J

**Bench :** Single Bench

**Advocate :** H. Kantharaju and Kalyan Kumar, for the Appellant; G. Nagaraj Naidu, HCGP for R1, G.K. Bhat, for R3, V.K. Kumbar, for R2 and R.V. Jayaprakash, for R4, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Chandrashekaraiah, J.—By consent of the parties, this Writ Petition is heard on merits.

2. The petitioner was appointed as the Chairman of the Yadgir Town Planning Authority by order dated 21.11.2000. Pursuant to this order, he assumed the Office of the Chairman on 23.11.2000. The State Government has now issued an order dated 22.7.2003 appointing the 3rd respondent as Chairman in place of the petitioner. This order is under challenge by the petitioner in this Writ Petition.

3. At the time of preliminary hearing, I being satisfied that there cannot be any appointment without removing the petitioner from the Office of the Chairman, I ordered emergent notice regarding Rule and granted an interim order of Stay. Subsequently, the State Government has filed an application for vacating the stay. After hearing, I passed the order dismissing the application filed by the State Government for vacating the interim order, as the State Government had not produced any order removing the petitioner from the post of the Chairman of the 2nd respondent. Thereafter, the 3rd respondent has now filed the application

for vacating the stay. Along with the application for vacating the stay, the 3rd respondent has produced the corrigendum issued by the State Government stating that the appointment of the 3rd respondent as Chairman in place of the petitioner amounts to removal of the petitioner and accordingly, clarified that the order Annexure "C" has to be read as a composite order which consists of removal of the petitioner from the post of Chairman and appointment of the 3rd respondent as Chairman in place of the petitioner. Now in view of this corrigendum, the petitioner has been removed from the post of the chairman with effect from 22.7.2003. Now the question that requires to be considered is, whether the petitioner is entitled to continue in the Office for the period of three years which is the normal term prescribed under the Rules framed under the Act.

4. Sri Kantharaj, learned Counsel appearing for the petitioner submitted that the removal of the petitioner from the post of the Chairman of the 2nd respondent is at the instance of the 4th respondent who is a Minister in the State Government and therefore, it is illegal. It is nextly contended that before passing the order of removal of the petitioner from the office of the Chairman, an opportunity should have been afforded to the petitioner and in the instant case, in the absence of any such opportunity being afforded to the petitioner, the impugned order is liable to be quashed as it has been passed in violation of the Principles of Natural Justice. In support of this contention, the petitioner has relied upon the decision in case of Channabasappa Vs. State of Karnataka and Another,

5. Under the Rules framed under the Act, the term of the Office of the members of the Planning Authority is three years. Sub-section (2) of Section 4D of the Karnataka Town and Country Planning Act, 1961 (hereinafter referred to as "Act") reads as follows:-

"The Chairman and the member of a Planning Authority constituted u/s 4-C, except those nominated by local authorities shall hold Office during the pleasure of the State Government. The representative of a Local Authority who is a member of that Authority shall cease to be a member of the Planning Authority when he ceased to be a member of the Local Authority concerned."

From the reading of the above Section, it is clear that the Chairman who has been appointed by the State Government holds the Office during the pleasure of the State Government. The order of appointment also speaks to the effect that he shall hold the Office of Chairman during the pleasure of the Government or three years whichever is earlier. So far as the pleasure theory is concerned, it is held by this Court in several cases that a person who is holding the post during the pleasure of the State Government, may be removed without affording any opportunity of hearing. Further, no reasons, be assigned in order to remove a person from the post, if he is holding the post during the pleasure of the Government. In the case referred to supra, this Court, no doubt has held that an opportunity should be given before removing a person concerned who has been appointed to be on the Board by the State Government, in view of the fact that the pleasure clause which was there when the Act came into force has been

subsequently deleted by an amendment. But, in the instant case, the person who is holding the Office as the Chairman holds the Office during the pleasure of the Government. If that is so, the decision referred to above, has no application and of no assistance to the petitioner.

5. In so far as the contention regarding malafides is concerned, the petitioner, except making certain allegations against the 4th respondent, has not produced any materials to show that the removal of the petitioner is vitiated because of malafides. In order to satisfy myself, I called upon the learned Government Advocate to produce the records and accordingly, he produced the records. From the records, I find that the 4th respondent has only requested the State Government to appoint the 3rd respondent as the Chairman of the 2nd respondent in place of the petitioner without making any allegations as against the petitioner. The 4th respondent is the Minister in the State Government. If the concerned Minister is of the opinion that a particular person is to be appointed as Chairman, I find nothing wrong in requesting the State Government to appoint the 3rd respondent as Chairman of the 2nd respondent. On the letter of the 4th respondent, the concerned Minister has taken decision to appoint the 3rd respondent as Chairman of the 2nd respondent. This decision of the concerned Minister also has been approved by the Chief Minister. Except this, I find nothing so as to say that the appointment of the 3rd respondent as Chairman of the 2nd respondent is because of the pressure brought by the 4th respondent on the State Government. Therefore, this contention of the learned Counsel for the petitioner, alleging malafides is liable to be rejected and accordingly, it is rejected.

6. The learned Counsel for the petitioner submitted that the corrigendum which was issued subsequently cannot be looked into so as to understand the effect and the meaning of Annexure "C". Wherever there is a bonafide mistake in issuing the order, necessarily a corrigendum is to be issued clarifying the intention of the order. On a reading of the corrigendum along with the order appointing the 3rd respondent as Chairman, it is clear that Annexure "C" is a Composite order consisting of removal of the petitioner from the office of the Chairman of the 2nd respondent and appointment of the 3rd respondent as the Chairman in place of the petitioner. If that is so, there is nothing wrong in considering the corrigendum in order to ascertain the meaning and effect of Annexure "C".

7. Since the petitioner, as observed earlier is holding the post during the pleasure of the Government, he is liable to vacate the Office consequent on his removal from the Office. Hence, I am of the considered view that this petition is liable to be dismissed. In the result, I pass the following order:

Writ Petition is dismissed.