

(2016) 09 KL CK 0049

In the High Court Of Kerala

Case No : Writ Petition (C) Nos. 21522, 21670, 21675 and 22094 of 2016.

**Sunny K. George, Associate Professor, M.A. College Of Engineering,
Kothamangalam-686 666 - Petitioner @HASH State of Kerala, Rep. By
Principal Secretary, Higher Edn. Department, Secretariat Annexe,
Thiruvananthapuram-695 001**

Date of Decision : 29-09-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Mahatma Gandhi University Act, 1985 — Section 21, Section 22

Citation : (2016) 4 ILRKerala 793

Hon'ble Judges : A.M. Shaffique, J.

Bench : Single Bench

Advocate : Sri. Kurian George Kannanthanam, Senior Advocate, Sri. Tony George Kannanthanam, Sri. Thomas George, Sri. Alex George (Chamapparayil), Sri. Elvin Peter P.J., Sri T.G. Sunil (Pranavam), Sri. K.R. Ganesh, Sri P. Deepak, Sri Anoop V. Nair, Sri R. Sreehari, S

Final Decision : Dismissed

Judgement

Mr. A.M. Shaffique, J. - Petitioners in these writ petitions separately challenge the action of the Government in withdrawing the nomination of members of the Syndicate and appointing certain others in their respective places.

2. The short facts involved in the writ petitions would disclose that the petitioners were members of the Syndicate of Mahatma Gandhi University nominated by the Government under Section 21 of the Mahatma Gandhi University Act. The petitioners were nominated in January, 2016 under the category of other members as detailed in Clauses (a), (c) and (d) of Section 21. Ext.P1 is the notification dated 18/1/2016. The Government in the State changed in May, 2016. Though a meeting was scheduled on 23/5/2016, it had to be adjourned to 16/6/2016 on account of obstruction created by certain persons. Petitioners had to approach this Court by filing WP (C) No. 20133/2016 seeking police protection for participating in the meeting of the Syndicate. In the meantime, Government as per Ext.P3 letter dated 23/6/2016 intimated the Registrar of the University

that the existing nominated members including the petitioners are replaced by a new set of people. Pursuant to Ext.P3, University issued a fresh notification which is produced as Ext.P4 dated 23/6/2016. Petitioner in WP(C) No. 21522/2016 challenges Exts.P3 and P4. Same orders are challenged in the other writ petitions.

3. The main contention urged by the petitioners is that the term of appointment to the office as members of the Syndicate is four years and therefore, the subsequent notification is arbitrary and illegal. Further, it is contended that Section 22(3) does not give an unbridled power to the Government to change the nominated members merely for the reason that there is change in Government.

4. Counter affidavit has been filed on behalf of the 1st respondent inter alia supporting the stand taken by them. It is contended that though under Section 22, term of office of members of office is four years from the date of their nomination, under Section 22(3), members of Syndicate nominated by the Chancellor or the Government is to hold office during the pleasure of the Chancellor or the Government as the case may be. In so far as the petitioners were only nominated to the post and holding office during the pleasure of the Government, it was well within the powers of the Government to have withdrawn their nominations and nominated other members to the Syndicate. Respondents also submit that all the newly nominated members were fully qualified for remaining in the post. Counter affidavits were filed by other respondents also supporting the stand taken by the Government in the matter.

5. The contention urged by the petitioners are two fold. One is that in terms of Section 22, when the nomination is for a period of four years, it is not open for the Government to withdraw the said nomination merely for the reason that there is change in Government. No specific reason had been stated for withdrawing the nomination. Though power is available to the Government to withdraw the nomination, in terms of Section 22(3), the said power has to be exercised for valid reasons. No such reason had been stated in order to invoke Section 22(3).

6. On the other hand, learned Advocate General submits that sufficient reasons were available with the Government to change the members of the Syndicate. Reference is made to an audit report dated 5/2/2016 in order to indicate that the Government had sufficient material to change the members of the Syndicate and therefore there was nothing wrong on the part of the Government in invoking Section 22(3) of the MG University Act.

7. The principle of law governing the issue on hand is well settled by judgments of the Apex Court in *Om Narain Agarwal v. Nagar Palika, Shahjahanpur* [(1993) 2 SCC 242] and *B.P. Singhal v. Union of India* [(2010) 6 SCC 331], wherein the Apex Court had occasion to consider the question as to what amounts to pleasure of the Government. Before proceeding further, it would be useful to refer to the provisions of the statute which governs the field.

8. Section 22 which is relevant reads as under:-

"22. Term of office of members of the Syndicate:-

(1) Members of the Syndicate, other than ex-officio members, shall hold office for a term of four years from the date of their nomination Provided that no person nominated in his capacity as a member of a particular body or as the holder of a particular office shall be a member of the Syndicate for a longer period than three months after he has ceased to be such member or holder of such office unless in the meanwhile he again becomes a member of that body or the holder of that office: Provided further that a member other than ex-officio member shall, notwithstanding the expiration of his term, continue to hold office until his successor is nominated:

Provided also that no person other than an ex-officio member shall be eligible to hold office for more than two terms in succession.

(2) Notwithstanding anything contained in the first proviso to sub-section (1), a member of the Syndicate referred to in item (c) or in item (d) under the heading "Other Members" in section 21 shall not cease to be such member merely on the ground that---

(a) he has been transferred to an educational institution within the State, situated beyond the territorial limits of the University; or (b) the college of which he is the principal or in which he is a teacher has been transferred to another University; or (c) in the case of a teacher, he has been promoted as principal.

(3) The members of the Syndicate nominated by the Chancellor or the Government shall hold office during the pleasure of the Chancellor or the Government as the case may be"

9. The first argument raised by learned senior counsel Sri. Kurian George Kannanthanam is that the members of the Syndicate other than ex-officio members are bound to hold office for a period of four years from the date of their nomination. The emphasis is on the words "shall hold office for a term of four years from the date of their nomination". Referring to the proviso, it is further contended that there is a prohibition to continue in office as a member of a Syndicate for a longer period than three months after he has ceased to be such member or holder of such office unless he in the meanwhile again becomes member of that body. Therefore, it is contended that when the Statute itself indicates that a person nominated as a member shall hold office for a period of four years from the date of nomination, sub section (3) has no application. It is contended that sub section (3) does not give any power to the Government to withdraw or cancel the nomination on account of the specific provision under Section 22(1) which clearly indicates that the member shall hold office for a term of four years.

10. Perusal of the aforesaid statutory provision would show that sub section (3) of Section 22 had been incorporated into the statute only by Act 12 of 2012. The

words in sub section (3) that members of the Syndicate nominated by the Chancellor or the Government "shall hold office during the pleasure of the Government" clearly indicates a pleasure doctrine despite the term of office as stated in Section 22(1) of the Act. Therefore, it cannot be contended that sub section (3) can have no application when a nomination is made under section 22(1).

11. Therefore the only question to be considered in these writ petitions is whether the action of the Government in withdrawing the nomination of the petitioners and appointing other persons in their place is in violation of the pleasure doctrine as held by the Apex Court in the judgments afore stated. In B.P. Singhal (supra), the Apex Court had occasion to consider this aspect while considering a question relating to removal of four Governors by the President of India. Article 156 of the Constitution of India regulates the terms of office of the Governor, which reads as under:-

"156. Term of office of Governor - (1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office."

12. While considering the doctrine of pleasure in B.P. Singhal (supra), it is held at paras 22 to 34 as under:-

"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 setup 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* has concluded that "at pleasure" doctrine is no longer justifiable in the context of modern employment relationship.

25. In *Abdul Majid*, 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.

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*, 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*, 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."

13. In the light of the specific law laid down by the Apex Court, it is rather clear that a need for reason exists even while exercising the power under Article 156(1) of the Constitution of India. Apex Court also considered the question whether judicial review of presence of pleasure is possible and it was held at para 83 as under:-

"83. We summarise our conclusions as under:

(i) Under Article 156(1), the Governor holds office during the pleasure of the President. Therefore, the President can remove the Governor from office at any time without assigning any reason and without giving any opportunity to show cause.

(ii) Though no reason need be assigned for discontinuance of the pleasure resulting in removal, the power under Article 156(1) cannot be exercised in an arbitrary, capricious or unreasonable manner. The power will have to be exercised in rare and exceptional circumstances for valid and compelling reasons. The compelling reasons are not restricted to those enumerated by the petitioner (that is physical/mental disability, corruption and behaviour unbecoming of a Governor) but are of a wider amplitude. What would be compelling reasons would depend upon the facts and circumstances of each case.

(iii) A Governor cannot be removed on the ground that he is out of sync with the policies and ideologies of the Union Government or the party in power at the Centre. Nor can he be removed on the ground that the Union Government has lost confidence in him. It follows therefore that change in Government at the Centre is not a ground for removal of Governors holding office to make way for others favoured by the new Government.

(iv) As there is no need to assign reasons, any removal as a consequence of withdrawal of the pleasure will be assumed to be valid and will be open to only a limited judicial review. If the aggrieved person is able to demonstrate prima facie that his removal was either arbitrary, mala fide, capricious or whimsical, the Court will call upon the Union Government to disclose to the Court, the material upon which the President had taken the decision to withdraw the pleasure. If the Union Government does not disclose any reason, or if the reasons disclosed are found to be irrelevant, arbitrary, whimsical, or mala fide, the Court will interfere. However, the court will not interfere merely on the ground that a different view is possible or that the material or reasons are insufficient."

Therefore the only aspect which requires to be considered is for the Court to call upon the Government to disclose whether they have acted upon any material at all and if the reasons are not disclosed or if the reasons which are disclosed are found to be irrelevant, arbitrary, whimsical, or malafide, the Court can interfere.

14. Sri. Elvin Peter learned counsel also placed reliance on a judgment of the Apex Court in *State of Haryana v. State of Punjab* [(2002) 2 SCC 507]. That was a case in which the Apex Court was considering a suit filed by State of Haryana under Article 131 of the Constitution of India. While considering the factual issues relevant to the said case, Supreme Court had occasion to pass the following observation:-

"What really bothers us most is the functioning of the political parties, who assume power to do whatever that suits them and whatever would catch the vote bank. They forget for a moment that the Constitution conceives of a Government to be manned by the representatives of the people, who get

themselves elected in an election. The decisions taken at the governmental level should not be so easily nullified by a change of Government and by some other political party assuming power, particularly when such a decision affects some other State and the interest of the nation as a whole. It cannot be disputed that so far as the policy is concerned, a political party assuming power is entitled to engraft the political philosophy behind the party, since that must be held to be the will of the people. But in the matter of governance of a State or in the matter of execution of a decision taken by a previous Government, on the basis of a consensus arrived at, which does not involve any political philosophy, the succeeding Government must be held duty-bound to continue and carry on the unfinished job rather than putting a stop to the same."

15. Learned Advocate General also referred to the very same judgment in B.P. Singhal (*supra*) and also the earlier judgment in OM Narain Agarwal (*supra*), wherein, the Apex Court held at paras 12 and 13 as under;

"12. In our view, such provision neither offends any Article of the Constitution nor the same is against any public policy or democratic norms enshrined in the Constitution. There is also no question of any violation of principles of natural justice in not affording any opportunity to the nominated members before their removal nor the removal under the pleasure doctrine contained in the fourth proviso to Section 9 of the Act puts any stigma on the performance or character of the nominated members. It is done purely on political considerations. In Dr Rama Mishra case the High Court wrongly held that the pleasure doctrine incorporated under the fourth proviso to Section 9 of the Act was violative of the fundamental right of equality as enshrined in Article 14 and Article 15(3) of the Constitution. We are unable to agree with the aforesaid reasoning of the High Court. Clause (3) of Article 15 is itself an exception to Article 14 and clauses (1) and (2) of Article 15 of the Constitution. Under Article 14, a duty is enjoined on the State not to deny any person equality before the law or the equal protection of the laws within the territory of India. Article 15(1) provides that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Article 15(2) provides that "no citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainments; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public".

13. Thereafter Article 15(3) provides that "nothing in this Article shall prevent the State from making any special provision for women and children". This means that in case any special provision is made for women, the same would not be violative on the ground of sex which is prohibited under clauses (1) and (2) of Article 15 of the Constitution. Thus, the special provision contained for nominating one or two women members as the case may be provided in Section

9 of the Act would be protected from challenge under clause (3) of Article 15 of the Constitution. It may also be worthwhile to note that the provision of pleasure doctrine incorporated by adding the fourth proviso does not, in any manner, take away the right of representation of women members in the Board, but it only permits the State Government to keep the nominated women members of its own choice. The High Court in Dr Rama Mishra case took a wrong view in holding that the fourth proviso to Section 9 of the Act was violative of Article 15(3) of the Constitution under an erroneous impression that this provision in any manner curtailed the representation of women members in the Board. We are not impressed with the reasoning given by the High Court that the fourth proviso to Section 9 of the Act in any manner deprived the fundamental right of equality as enshrined in Article 14 of the Constitution. It is well established that the right of equality enshrined under Article 14 of the Constitution applies to equals and not to unequals. The nominated members of the Board fall in a different class and cannot claim equality with the elected members. We are also not impressed with the argument that there would be a constant fear of removal at the will of the State Government and is bound to demoralise the nominated members in the discharge of their duties as a member in the Board. We do not find any justification for drawing such an inference, inasmuch as, such contingency usually arises only with the change of ruling party in the Government. Even the highest functionaries in the Government like the Governors, the Ministers, the Attorney-General and the Advocate-General discharge their duties efficiently, though removable at the pleasure of the competent authority under the law, and it cannot be said that they are bound to become demoralised or remain under a constant fear of removal and as such do not discharge their functions in a proper manner during the period they remain in the office."

16. Learned Advocate General also referred to a judgment of this Court in WP(C) No. 331/2012, wherein, I had occasion to consider a question whether member of the Finance Committee of MG University is entitled to continue in office even if he has ceased to be a member of the said Finance Committee.

17. In the counter affidavit filed by the 1st respondent, they have not stated any reason as such to enable invocation of sub section (3) of section 22. As held by the Apex Court, the Court hearing the matter can call upon the State Government to provide the reasons for withdrawing the nomination while exercising the pleasure doctrine as provided under Section 22(3). Learned Advocate General submits that audit report of 2013-14, which was placed on record as per letter dated 5/2/2016, indicated various infirmities in the functioning of the Syndicate and therefore the necessity to change the members of Syndicate was very much in existence. I do not think that it will be appropriate for this Court to elaborate on the reasons stated in the audit report of 2013-14 placed before me. Suffice to observe that several infirmities are pointed out in the said report, which is now relied upon by the Government as a reason to invoke power under Section 22(3).

18. First of all, the nomination of members of the Syndicate cannot be reckoned or equated to the appointment of Governor as held by the Apex Court in B.P. Singhal (supra). In that case, the Apex Court was considering the scope and effect of Article 156 of the Constitution of India which indicated that the Governor shall hold office for a term of five years from the date on which he enters upon his office. In Om Narain Agarwal (supra), the question considered was regarding whether any person has a right to seek an election or to be elected or nominated to a statutory body. It was held that when their appointment is political, there cannot be any challenge on the ground that their removal will give rise to any stigma on their character.

19. Taking into consideration the aforesaid factual situation and the legal issues emanating from the above discussion, I do not find any error on the part of the Government in having withdrawn the nomination of the petitioners and members of the Syndicate and reappointing other persons. In a few writ petitions, they challenge the qualification of the members who are appointed as members of the Syndicate. In the counter affidavit filed by the Government in WP(C) No. 21522/2016, it is stated at paragraphs 7 to 9 as under:-

"7. It is submitted that the 3rd respondent, Sri. P.K. Harikumar is a practicing lawyer for the past 29 years. He was elected as member of the Senate of M.G. University on 4 occasions and twice to the Syndicate. He was also elected to the Senate of the Cochin University of Science and Technology and Kerala University as well. He was a member of the Selection committee to select the Vice Chancellor of the University on thrice. He was the President of Kerala State Library Council from 2010-15 which is under the Higher Education Department. He is also the author of 5 books published by D.C. Books, NBS and M.G. University. He is also the Chairman of the Vaikom Muhammed Basheer Smaraka Trust. The 3rd respondent is fully qualified for being nominated to the Syndicate of the Mahatma Gandhi University.

8. It is respectfully submitted that the 6th respondent, Sherafudeen K. served as Senate Member of M.G. University for 8 years, University Statutory Finance Committee for 2 years, Faculty Member in Law, School of Indian Legal Thought from 2011 onwards. He published Articles on Higher Education in leading News Papers & Journals. He is member of M.G. University anti Harassment Cell for the last 9 years, Convenor, Save University Forum for the last ten years, Editor, University Service magazine of M.G. University Employees Association and Executive Committee Member, Confederation University Employees Organisations, Kerala for the last 20 years. He is a Post Graduate in Commerce and Constitutional law. He has 27 years of experience in legal, administration and Examination Wing of the M.G. University. The 6th respondent is also fully qualified for being nominated to the Syndicate of the M.G. University.

9. The contention that the appointment of the 9th respondent as Principal has not been approved, is not correct. Hence, he is also qualified for being nominated from that category. Hence the contention that respondents 3, 6 and 9 are

ineligible for being nominated as members of the Syndicate, is not sustainable."

Similarly, the party respondents also filed counter affidavits detailing their qualification to hold the post.

20. The Government in these cases submits that all the persons appointed are well qualified to act as members of the Syndicate and I do not think that a different view should be taken in the matter.

21. Accordingly, I do not find any reason to interfere with the impugned orders.

22. Writ petitions are dismissed.