

(1993) 11 SHI CK 0005
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 229 of 1993

Suresh Bhardwaj

APPELLANT

Vs

H.P. University and Others

RESPONDENT

Date of Decision : 30-11-1993

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 15(3), 16, 356
Himachal Pradesh General Clauses Act, 1968 — Section 15, 20
Himachal Pradesh University Act, 1970 — Section 13, 21, 21(1), 21(2), 3(1)

Citation : (1994) 1 ShimLC 185

Hon'ble Judges : Lokeshwar Singh Pant, J;Devinder Gupta, J

Bench : Division Bench

Advocate : R.K. Sharma, for the Appellant; D.C. Jishtu, for Respondent No. 1, Indar Singh, General and G.D. Verma, A.A.G. for Respondent No. 2 and A.K. Goel, for the Respondent

Final Decision : Dismissed

Judgement

Lokeshwar Singh Pant, J.—In this writ petition, the Petitioner, seeks to challenge the validity of notification dated 26th February, 1993 of the Himachal Pradesh University, terminating his tenure as a nominated member of the Executive Council before the expiry of the period of 2 years and nominating Shri Harbhajan Singh Bhajji in his place. In this petition there are three Respondents. Himachal Pradesh University (hereinafter referred to as the University) is Respondent No. 1, the State of Himachal Pradesh through Secretary (Education) is Respondent No. 2 and Shri Harbhajan Singh Bhajji is Respondent No. 3. It is alleged that the Petitioner is a Law Graduate and a practising Lawyer in District Court Shimla and High Court of Himachal Pradesh. It is his case that he was elected as M.L.A. from Shimla Constituency on the ticket of Bhartiya Janta Party (hereinafter referred to as "B.J.P") in the year "990. He was nominated as a Member of the Executive Council of the University by the State Government on 27th March, 1990 for a period of two years. He was again nominated as a Member of the Executive Council of the University by the State Government on 27th March, 1990 for a

period of two years with immediate effect through notification dated y 28th March, 1992 vide Annexure-Pl.

2. It is stated in the petition that the Petitioner is a Law Graduate from this very University and is much more conversant with the affairs of the University. He was rendering valuable service for the welfare of the University and the cause of the learning. It is also alleged that the term of the Petitioner was specified as two years and there is no enabling clause to reduce this term. The Petitioner states that his removal from the membership of the Executive Council before the expiry of the prescribed term amounts to stigma and it affects his future prospects in life and has further tarnished his image in the public. It is also alleged that in the year 1990 "BJP" came to power in the State, but the State Government was dismissed by the President under Article 356 of the Constitution of India on 15th December, 1992. Against the dissolution of the Legislative Assembly a writ petition No. 1037 of 1992 entitled Shri Shanta Kumar v. Union of India was filed in the Court which is pending for decision. The Petitioner further states that the action of removing him from the membership of the Executive Council and nominating Respondent No. 3 who had been the member of the Legislative Assembly of the Congress Government before 1990, is malafide, illegal, unconstitutional and against the principles of natural justice. His further grievance is that the Legislative Assembly had been dissolved but the Petitioner still retains the confidence of the public and during the President Rule the State Government could not have terminated his tenure. He alleges that in all aspects he has better merit than Respondent No. 3.

3. Respondents No. 2 and 3 have contested the petition by filing separate sets of counter-affidavits. Reply-affidavit has been filed by Shri Prem Kumar, Additional Secretary (Education) to the Government of Himachal Pradesh on behalf of Respondent No. 2. In its reply the State have raised some preliminary objections. It is submitted in preliminary objection No. 1 that after recent Political change in Himachal Pradesh there is a see change in the administration of the State, the termination of the Petitioner's nomination was in furtherance of the objective that its nominee should be able to carry out its policy. It was considered that in the changed circumstances, the Petitioner would not be able to work in conformity with and implementing the basic policy of the present regime of the State. It is further stated that Respondent No. 3 was the nominee of the State and his term was curtailed after the elections in which the "B.J.P" came into power in March 1990.

4. In objection No. 2, it is submitted that neither the University Act nor Statutes provide for a term for which nominated member has a right to be member of the Executive Council Section 21(1)(xi) empowers the State Government to nominate a person which implies within it that he should be able to carry out its policies. It is also submitted in objection No. 3 that Section 21(2) deals with the situation that the State Government would not nominate a person for more than two years but that does not create a right in the nominee that he acquires a right

to hold the office for two years and the term cannot be curtailed. Curtailment of the term of the nominee is inherent in the very system of nomination and it pre-supposed that the nominee may continue to represent the view of the authority who nominated him.

5. In objection No. 4 it is submitted that the University Act does not provide or express any provision to terminate the tenure of the nominated member, but that would not lead to the conclusion that the tenure of the nominated member cannot be terminated before the expiry of the period for which he was nominated. The power to nominate includes the power to determinate nomination by virtue of Section 20 of the Himachal Pradesh General Clauses Act, 1968 (Act No. 16 of 1969) and that power can be exercised u/s 13 of the Act from time to time as occasion arises. It is stated that the nomination does not confer upon the nominated person an indefeasible right to continue in office for two years as Section 21(1)(xi) of the University Act clearly places a restriction on the power of the State Government that it will not nominate a member for more than two years.

6. In objection No. 5 it is stated that a nominated member has no right much less his vested right to hold the office for full term of two years. The nomination is a privilege conferred by nominating authority and that can be withdrawn by the same authority which has conferred the privilege. It is also stated that by curtailing the period of nomination, the Petitioner has no right to complain any violation of natural justice. On merits it is admitted that the Petitioner was elected as M.L.A. from Shimla Legislative Constituency on "B.J.P. " ticket in the year 1990 and dismissal of the B.J.P." Government with effect from 15th December, 1992 is also admitted. The nomination of the Petitioner as a member of the Executive Council by the B.J.P. Government is also admitted. The rest of the allegations are stated to be vague and unfounded and as such denied.

7. The reply affidavit by Respondent No. 3 is almost on the similar lines. However, it is further stated in the affidavit that nominating authority has inherent power and authority to curtail the tenure of the person nominated by it without assigning any reason, more particularly, when the Petitioner was entitled to enjoy the privilege of nomination on the pleasure of the nominating authority.

8. The Petitioner filed rejoinder to the reply of Respondent No. 1 in which it is stated that the Governor-in-Council had no opportunity to examine whether the policies were properly carried out by the Petitioner or not. It is also submitted that other similarly situated person is still continuing and the State Government has only picked up the Petitioner for removal and this action is colourable exercise of power which is arbitrary and illegal.

9. The writ petition came up before the Division Bench of the Court on 29-3-1993 when notices were issued to the Respondents. In stay application, the Court has directed that no meeting of the Executive Council shall take place till the next date of hearing. On 25th May, 1993 the said order was modified by the Division

Bench to the extent that meeting of the Executive Council may take place. However, the Petitioner and Respondent No. 3 will not take part in it till further order.

10. With the consent of the learned Counsel for the parties we proposed to hear the matters at the admission stage itself.

11. It was argued in the first instance by Shri R.K Sharma, learned Counsel for the Petitioner that the tenure of the Petitioner was fixed as two years by the University Act and the State Government has no power to terminate the same before its completion and there is no relaxation clause prescribed by the Act to deduce the term. His second submission is that termination of the tenure is without assigning any reasons and without hearing the Petitioner and as such is against the principles of natural justice.

12. With a view to appreciate the contentions raised by the learned Counsel for the Petitioner, it is appropriate to notice the relevant provisions of the Act.

13. Himachal Pradesh University was established and incorporated u/s 3(1) of the Himachal Pradesh University Act, 1970 (Act No. 17 of 1970). Section 21 of the Act deals with the composition of Executive Council. It reads as under:

21. Executive Council.-(1) The Executive Council shall be the Executive Body of the University and shall consist of the following members:

- (i) the Vice-Chancellor;
- (ii) the Registrar;
- (iii) the Secretary (Finance) to the State Government;
- (iv) the Secretary (University Education) to the State Government;
- (v) the Director of Education, Himachal Pradesh;
- (v-a) the Chairman, H.P. Board of School Education;

Other Members

- (vi) two Deans of Faculty to be nominated by rotation by the Vice-Chancellor;
- (vii) two principals of affiliated colleges/colleges maintained by the University by rotation on the basis of seniority of whom one shall be principal of a Government College;
- (viii) one member to be elected by the Court from amongst its members who is not a teacher or an employee or a student in the University;
- (ix) one member to be elected by the Academic Council from amongst its member other than students and employees of the University;
- (x) one professor of the University by rotation on the basis of seniority to be nominated by the Vice-Chancellor;

- (xi) one person to be nominated by the State Government;
- (xii) one representative of students and one representative of non-teaching employees to be appointed for a period of one year at a time in the manner prescribed by the Statutes;
- (xiii) two persons to be nominated by the Chancellor out of the persons having special knowledge, or practical experience in respect of such matters as art, literature, law, science and administration or social service;
- (xiv) one representative of the lecturers of colleges affiliated to the University to be chosen by direct elections; and
- (xv) one representative of the lecturers of the University, lecturers of the Directorate of Correspondence Courses and the lecturers of the University Evening College to be chosen by direct election.

(2) Save as otherwise provided and except the ex-officio members, all other members shall hold office for a period of two years from the date of their election or nomination, as the case may be:

Provided, however, that no person nominated or elected in his capacity as a member of a particular appointment shall be a member after he ceases to be a member of that body or holder of that appointment, as the case may be:

Provided further that any member, other than ex-officio members shall cease to be a member of the Executive Council if he absents himself from more than three consecutive meetings of the Executive Council without leave of absence from the Council.

(3) No person shall be or continue to be a member of the Executive Council in more than one capacity, and whenever a person becomes a member of the Executive Council in more than one capacity, he shall, within two weeks thereof, choose the capacity in which he desired to be a member of the Executive Council and shall vacate the other seat. Where he does not so choose, the seat held by him earlier in point of time shall be deemed to have been vacated with effect from the date of expiry of the aforesaid period of two weeks.

(4) Seven members of the Executive Council shall form the quorum.

(5) The Executive Council shall be in charge of the general management and administration (including the revenue and property) of the University.

(6) The powers and functions of the Executive Council shall be such as may be prescribed by the Statutes.

14. As regards the first argument of the learned Counsel appearing on behalf of the Petitioner that the tenure of the Petitioner was fixed for two years and the same could not be curtailed by the nominating authority, is concerned, we are inclined to hold that there is no merit in this contention. It is accepted principle of common law relating to the removal of holder of an office that the authority

which has the power to nominate its member has the inherent and implied power to remove the member. If the nominated member holds office at pleasure, then he can be removed at will, but if he holds his office otherwise than at pleasure, he can be removed only for cause after due notice and hearing. In view of the principle of common law stated above, until and unless there is a provision in the Statute barring the removal of the nominated member at pleasure, it is to be held that the authority who had the power to nominate the member has the power to remove the member by rescinding the earlier notification. This principle is also enshrined in the provisions of Section 20 of the Himachal Pradesh General Clauses Act, 1968. In Section 20 of the Act, the authority who has the power to issue notifications or make orders, rules or bye-laws has got power to amend, vary or rescind any notifications, orders, rules, or bye-laws so issued or made. In Section 15, the authority who has conferred power to make any appointment, has also power unless a different intention appears to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power. The State Government which have the power to nominate one member to the Executive Council at its pleasure have the power to remove him until and unless there is any bar signified in the Statute itself. We have already reproduced the provisions of Section 21 of the Act in the earlier part of the judgment. As is clear from the provisions of Section 21 of the Act, the State is the nominating authority. The State have the powers to remove the member by rescinding the earlier notification in accordance with the provisions of Section 21 of the Act. The Executive Council under the Act is the Governing Body of the University and has to perform very important functions dealing with overall charge of the general management and administration (including the revenue and property) of the University besides various other powers and functions as prescribed by Statute 11 of the First Statutes. Section 21 does not create any bar to remove the member before expiry of two years. However, a bare reading of this section shows that the nominated member enjoys privilege at the pleasure of the State Government. It does not create a right much less fundamental right in the nominee to hold the office for two years and curtailment of the term of the nominee is inherent and implied. The only bar created by the Act is that the State Government cannot nominate member of the Executive Council for more than two years at a stretch.

15. The view which we are taking finds ample support from a number of decisions of the Supreme Court and various High Courts.

16. In *Dr. D.C. Saxena Vs. State of Haryana and Others*, the tenure of a Chairman, Vice-Chairman or a Member of the Haryana Board of School Education before the expiry of fixed term has been held to be valid. In that case initially the tenure of office was for a period of two years from the date of assuming charge and the same was curtailed with immediate effect by an order issued by the State Government. In that case Khalid, J. speaking for the Bench has observed in para 6 of the report as under:

It is apparent, on a comparison of the terms of Section 4A and Section 9, that while the former deals with the general power of the State Government to terminate the tenure of the Chairman, Vice-Chairman and members, the latter carves out a special field dealing with a category of cases where the State Government may remove a member whose continuance in office is not in the interest of the Board. A case falling within Section 9 is a case where removal must be for reasons personal to the Member and flow from his conduct or such other factor which requires that, in the interest of justice and fair play, he should be given an opportunity to tender an explanation. In the view that Section 9 carves out a special field, Section 4A is left with an abridged scope. So abridged, it deals with cases other than those where the continuance of a member calls for termination in the interest of the Board and requires that such member be given an opportunity of tendering an explanation before such removal. Section 4A can be said to include cases where the tenure of a Chairman, Vice-Chairman or a member is liable to termination on grounds of general policy. Thus where the termination of the tenure of the Chairman of the Haryana Board of School Education was the result of the policy decision taken by the Government of dispensing with the services of non-officials and non-ML As as Chairman of the Boards and Corporations excluding some of the Boards and Corporations, it could not be said that the omission to follow the procedure laid down in Section 9 rendered his removal bad. More so when Section 4A enabled the Government to remove him and no challenge had been posed to the validity of Section 4A.

17. In *Ghanshyam Singh Vs. Union of India and Others*, initially the Petitioner was nominated as a Director of Indian Farmers Fertilizer Co-operative Limited (IFFCO) but later on he was superseded by another person. The said order was challenged *inter alia*, on the ground of mala fide exercise of power by the Government as well as on the ground of constitutional validity of Section 41(3) of the Multi State Co-operative Society Act, 1984. Section 41(3) reads as under:

Person nominated under this section shall hold his office during the pleasure of the Government by which he has been so nominated.

18. It was argued in that case that provisions like Section 41(3) of the Act by which a person nominated by the Central Government or the State Government on the Board of the Society to hold office during the pleasure of the respective Government by which he was appointed as Director was *ultra vires*, it was also argued that such a nomination can be said to be selection of a person in the office and since it is a public office, there must be deemed to have an element of continuity. The bye-laws of the society provided for a fixed period and in these circumstances, the provision whereby the Directors could hold the office only during the pleasure of the Government under Sub-section (3) of Section 41 of the Act was arbitrary, capricious, unreasonable and *ultra vires* of Articles 14 and 16 of the Constitution.

19. The said contention was negated by the High Court of Delhi and the provision was held *intra vires*. The Court observed that it is true that the term of

the office of elected members of the Board of Directors was for three years and was extendable also. That did not, however, mean that an absolute right had been created in favour of such persons and that no action could be taken against them during the said term. The term was subject to the pleasure of the Government and the Government had the "inherent power to recall or revoke that order." The Court also upheld the contention of the Respondent that the exercise of power nominating Respondent No. 3 in that case (in place of the Petitioner) was made on the basis of subjective satisfaction only. Since it was in exercise of the powers vested in the Government, it was not open to judicial review excepting malafides. In the facts and circumstances of the case, the Court did not uphold the contention of malafides on the part of Shri Devi Lal the then Deputy Prime Minister and dismissed the petition filed by the Petitioner. It appears that against the said decision, the Petitioner even moved the Hon'ble Supreme Court of India and the said petition being SLP No. 4811 of 1990 also came to be dismissed by the Supreme Court.

20. Almost an identical question arose before the Delhi High Court in case of Smt. Amarjit Kaur v. Union of India and Ors. in Civil Writ Petition No. 1761 of 1990 decided on September 21, 1990 by a Division Bench of that Court. In that case Petitioner was appointed as Chairperson of the Central Social Welfare Board (a Government Company) for a period of 3 years by Government resolution. The Petitioner assumed the charge of the said office pursuant to the said resolution. Under the apprehension that the Respondent would terminate her appointment before the completion of three years, a petition came to be filed by the Petitioner in the High Court of Delhi praying therein that the Respondent be restrained from terminating her appointment before the stipulated period of three years and to allow her to continue as the Chair-person.

21. It was contended on behalf of the Petitioner that the proposed action was illegal, arbitrary and vindictive on the ground that the party in power in the Central Government was changed. It was submitted that merely a change of Government appointment which had been made by the earlier Government cannot be permitted to be cancelled by the new Government. It was also contended that principles of natural justice ought to have been observed before taking any action against the Petitioner by the Respondent-authorities.

22. Taking into consideration various clauses of Articles of Association. Court held that it was entirely left to the subjective satisfaction of the Government whether a particular woman can be said to be a prominent "social worker" or whether she enjoys "All India status" for the purpose. Similarly, it was within the satisfaction of the Government to decide whether such a woman had "adequate administrative experience and organisational abilities" No details and guidelines were furnished in the Articles of Association and the Government was to decide said question on subjective satisfaction only. In view of the fact that it was left to the subjective satisfaction of the Government, as a necessary corollary the Government had power to remove such person from the office of Chairperson

and the said decision cannot be said to be subject to judicial scrutiny or reviewability by a Court.

23. Thus, according to the Court the change in the personnel position is "inevitable part of change in the policy and programmes" of the Government. The Court further observed that if democratically elected government, felt that for effective implementation of its policies and programmes and change in the personnel was necessary, it could not be accused of malafide or pursuing an act of vendetta. The Court also relied on its earlier judgment rendered in Ghanshyam Singh's case (supra) against which SLP was dismissed by the Supreme Court. Referring to the judgment of the Supreme Court in Life Insurance Corporation of India Vs. Escorts Ltd. and Others, the Court held that even in case of a normal Governmental function, there are certain areas of administrative actions and there are special occasions when certain amount of freedom of action must be left with the Government in public interest. If such an action is taken, it cannot be said to be arbitrary, capricious, malafide or unreasonable. After referring to a number of cases, the Court concluded:

To summarise, the appointment of a person as the Chairperson of the Central Social Welfare Board is neither an appointment nor an employment under the State. The Government has absolute discretion in the appointment and removal of such a person. There is no vested right in the Chairperson for continuing to hold the appointment for the entire period of three years....". "Where it is within the absolute discretion of the Government to confer the alleged dignity or status, it is implied in the said discretion that so called dignity or status can also come to an end in the exercise of said discretion. It is the Government which in its discretion treated the Petitioner as a "prominent social worker of all India status and attributed adequate administrative and organisational abilities " After all the Petitioner has not objectively established that she possesses any such qualifications. The suitability for the appointment to the said office of the Chairman, Central Social Welfare Board is inseparably connected with the policy framework of the Government. Every loss of office whether high or low creates subjective feeling of loss of social position. But here the considerations of high administrative discretion and policy transcend personal emotions of loss of status of the Petitioner.

Similar view was taken by a single Judge of Gujarat High Court in Harisinh Pratapsinh Chavda Vs. Chimanbhai J. Patel and Others, In that case the Petitioner was appointed as Chairman of the Gujarat Water Supply and Sewerage Board for a period of three years and after the change of the Government in power he was asked to resign on the ground of change in the political situation. The Petitioner challenged this action of the Government by way of writ petition. The learned single Judge while dismissing the writ petition has held in paras 7, 9 and 10 as under:

It becomes clear from reading of the entire Scheme of the Act that it is on the basis of the subjective satisfaction on the part of the State Government that an

appointment of the Chairman of the Board is to be made. It is clear from Clause (a) of Sub-section (1) of Section 4, which inter alia provides that State Government may appoint the Chairman, "appearing to it to be qualified by reason of wide administrative experience in a managerial capacity." Therefore, whether the person can be said to be qualified for such post or not or whether such person is having wide administrative experience in a managerial capacity or not, etc. is left by the Legislature to the State Government to decide. No objective criteria have been laid down so as to decide the facts in an objective manner by Courts or by applying the principles of judicial review. Similarly, the proviso to Sub-section (1) of Section 6 empowers the State Government in no uncertain terms to determine the term of the office of the Chairman of the Board earlier than three years. Thus, the statute has conferred power on the State Government in respect of appointment as well as determination of the office of the Chairman of the Board. It has nothing to do with any disqualifications. Similarly, there is no question of removal or dismissal also. The provisions of Section 6 are abundantly clear and even though the term of the office of the Chairman is of 3 years, it is liable to be determined earlier by the State Government and, therefore, no writ order or direction can be issued by the High Court restricting, preventing or prohibiting the State Government from exercising its statutory power, which has been granted by the legislature under the proviso to Section 6(1).

24. In *Om Narain Agarwal and others Vs. Nagar Palika, Shahjahanpur and others*, the Supreme Court while dealing with the termination of the tenure of nomination of two women members before the expiry of the period and to nominate new members in their place observed in paragraphs 11, 12 and 13 as under:

The right to seek an election or to be elected or nominated to a statutory body, depends and arises under a statute. The initial nomination of the two women members itself depended on the pleasure and subjective satisfaction of the State Government. If such appointments made initially by nomination are based on political considerations, there can be no violation of any provision of the Constitution in case the legislature authorised the State Government to terminate such appointment at its pleasure and to nominate new members in their place. The nominated members do not have the will or authority of any residents of the Municipal Board behind them as may be present in the case of an elected member. In case of an elected member, the legislature has provided the grounds in Section 40 of the Act under which the members could be removed. But so far as the nominated members are concerned, the legislature in its wisdom has provided that they shall hold office during the pleasure of the Government. 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 puts any stigma on the performance or character of the nominated members. It is done purely on political considerations.

The fourth proviso to Section 9 is not violative of Articles 14 and 15(3). Clause (3) of Article 15 is itself an exception to Article 14 and Clauses (1) and (2) of Article 15. Thus, the special provision contained for nominating one or two women members as the case may be provided in Section 9 would be protected from challenge under Clause (3) of Article 15. The provision of pleasure doctrine incorporated by adding proviso four 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. Therefore, the fourth proviso is not violative of Article 15(3).

Nor the fourth proviso to Section 9 of the Act in any manner deprived the right of equality under Article 14. Article 14 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. There is also no substance in the argument that as a result of the fourth proviso there would be a constant fear of removal at the will of the State Government which would demoralise the nominated members in the discharge of their duties as a member in the Board. 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.

25. In our opinion the instant case squarely falls within the four corners of the above referred decisions. We are, therefore, of the opinion that the tenure of the office of the Petitioner is not fixed for two years and the same is at the pleasure of the State Government. There is nothing on record to hold that the State Government acted capriciously or arbitrarily in terminating the tenure of the Petitioner as nominated member of the Executive Council.

26. For the reasons recorded above, we do not find any merit in the first contention of the learned Counsel.

27. As regards the second contention that the termination was without reasons and without affording an opportunity of pre-decisional hearing to the Petitioner, it may be noticed that Section 21 does not enjoin on the State Government duty to give explicit reasons while issuing orders under it. The State is the best Judge to decide as to when and in what circumstances the term of nominated member should be reduced. It is not the requirement of Section 21 that a nominated member who holds office at the pleasure of the State Government shall be reviewed by a speaking order. In our opinion, reasons are not required to be

disclosed nor pre-decisional hearing is required. In Om Narain Agarwal's case (supra) the Supreme Court has observed that if appointments made initially by nominations are based on political considerations, there can be no violation of any provisions of the Constitution in case legislature authorised the State Government to determine such appointment at its pleasure and to nominate new members in its place. The nominated members do not have the will or authority of any residents of the Municipal Board behind them as may be present in the case of an elected member. In case of elected member the legislature has provided the grounds in Section 40 of the Act under which the members could be removed. But so far as nominated members are concerned, the legislature in its wisdom has provided that they shall hold office during the pleasure of the Government. 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 any 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. (Emphasis supplied)

28. In the light of the above observations, the writ petition fails and is dismissed.

The parties are left to bear their own costs.