IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

+ WRIT PETITION No.14774 OF 2019

% Dated 04.05.2021

#
Dasari Raja Master
s/o Vidya Nadham
R/o D.No.8-11-110, 7th Line,
Nehru Nagar, Guntur,
Andhra Pradesh & 10 others ..... Petitioner
Vs.

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The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Education (SE-Ser.I) Department
Amaravati and another ......Respondents

JUDGMENT PRONOUNCED ON: 04.05.2021

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? YES

2. Whether the copies of judgment may be marked to Law Reporters/Journals YES

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? YES

*** THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

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The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Education (SE-Ser.I) Department
Amaravati and another ......Respondents

! Counsel for the petitioner : Sri Vedula Venkataramana

^ Counsel for the respondent :
Learned Additional Advocate General

<GIST:

> HEAD NOTE:

? Cases referred

1. (2010) 6 Supreme Court Cases 331
2. 1991 AIR 537
3. 1995 (3) ALT 695
4. AIR 2008 Punjab and Haryana 67
5. (1955) 1 SCR 1104
6. (1961) 3 SCR 855
7. (1958) SCR 1240
8. (1955) 1 SCR 250
9. AIR 1954 SC 245
10. 2007 (6) SCC 276
11. (1975) 1 SCC 421
12. (1986) 4 SCC 746
13. 1976 AIR 2433
14. (1994) SLT 217
15. (2011) 11 SCC 293
16. (2011) 11 SCC 458
17. (1993) 2 SCC 242
18. 1999 (1) GLR 406
19. AIR 1999 Guj 48
20. (2001) 2 SCC 441
21. 2002 (2) GLH 235
22. 2001 (3) All ER 433

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.14774 OF 2019

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, claiming the following relief, which is extracted hereunder:

> "to issue a Writ of Certiorari or any other appropriate writ and quash the proceedings of the 1st respondent contained in G.O.Rt.No 244 and G.O.Rt.No.246 dated 17.09.2019 by which the 1 respondent has terminated the Chairman of A.P Grandhalaya Parishad and District Level Public Libraries and also consequently set aside the proceedings by which a person in charge is appointed for the Parishad and District Level Public Libraries of Srikakulam, Vizianagaram, West Godavari, Krishna, Prakasam, Nellore, Chittoor, Ananthapuramu, Kadapa and Kurnool and direct the respondents to continue the nominated persons to function as Chairman of the A.P Grandhalaya Parishad and other District Level Public Libraries of Srikakulam, Vizianagaram, West Godavari, Krishna, Prakasam, Nellore, Chittoor, Ananthapuramu, Kadapa and Kurnool."

Petitioner No.1 was appointed as Chairman of Andhra Pradesh Grandhalaya Parishad. Petitioner Nos. 2 to 11 were appointed as Chairmans of Zilla Grandhalaya Parishad for the various districts under Sections 7, 10 & 11 of the Andhra Pradesh Public Libraries Act, 1960 (for short 'the Act'). The term of nominated members and it's Chairman is three years from the date of nomination or until further orders in terms of the order of appointment/nomination. All the petitioners are Chairman of A.P. Grandhalaya Parishad and Members of respective district public libraries of Srikakulam, Vizianagaram, West Godavari, Krishna, Prakasam, Nellore, Chittoor, Ananthapuramu, Kadapa and Kurnool or State public library/parishad. Insofar as

Visakhapatnam District is concerned, no person was nominated as Chairman of the District Public Library.

While the petitioners are continuing as Chairman and Members of State Level Public Library and District Level Public Libraries, G.O.Rt.No.244 and G.O.Rt.No.246 dated 17.09.2019 were issued by the first respondent, terminating the appointment of existing nominated Chairman of A.P.Grandhalaya Parishad, Chairman and Members of all the District Level Public Libraries. It is contended that, G.O.Rt.No.244 and G.O.Rt.No.246 dated 17.09.2019 are laconic and bereft of any reasons and no notice or opportunity whatsoever was given to the incumbents of the office of the Chairman of District Public Libraries and it is not known as to why the impugned proceedings were issued, as they are patently arbitrary and unreasonable.

It is contended that, it is settled law that any executive action shall be based on reasons, thus the impugned proceedings are arbitrary, irrational and malafide and that there is no reason as to why the petitioners are condemned and terminated from the office of Chairman of the State Level Public Library and District Level Public Libraries. In view of the impugned proceedings in the writ petition, a person in charge has been appointed exercising power under Section 12-A of the Act. Section 12-A does not contemplate a situation which has arisen like the impugned government order and Section 12-A would come into play only when there is delay in constitution of the committee in accordance with the provision contained in Section 3 of the Act. Thus, no

power under the statute to terminate a nominated Chairman, except is vested on the respondents by following the procedure prescribed under law. Further, the impugned action is behind the petitioners and they do not know the reason for passing the impugned order. Thus, it is contended that, the impugned proceedings are arbitrary and without reason or authority and consequently, sought to quash the proceedings contained in G.O.Rt.No 244 and G.O.Rt.No.246 dated 17.09.2019 and grant of consequential relief.

The respondents filed counter affidavit while admitting about appointment of these petitioners and termination under G.O.Rt.No.244 and G.O.Rt.No.246 dated 17.09.2019, while denying the other allegations.

The specific contention of the respondents is that, in exercise of powers conferred under Section 3(4)(a) of the Act, as amended from time to time, the Government has nominated the first petitioner Sri Dasari Raja Master as Chairman of A.P. Grandhalaya Parishad vide G.O.Rt.No.81 Education (SE.Ser.I) Department dated 19.04.2018, wherein it was clearly mentioned that the Chairman shall hold office during the pleasure of the Government of Andhra Pradesh, subject to any further orders to be issued by the Government of Andhra Pradesh under sub-section (2) of Section 7 of the Act. Similarly, exercising the powers under sub-section (3) of Section 10 of the Act, the Government has nominated petitioner Nos. 2 to 11 as Chairman of Zilla Grandhalaya Samsthas for the districts Cuddapah, Ongole, Nellore, Krishna, Kurnool,

Vizianagaram, Srikakulam, Chittoor, West Godavari and Anantapur respectively. While appointing the above persons by nomination as Chairman, it was clearly mentioned in the respective government orders that the Chairman and Members nominated shall hold office "during the pleasure of the Governor" of Andhra Pradesh and subject to any further orders to be issued by the Government of Andhra Pradesh under Section 11 of the Act.

It is submitted that, as the petitioners were appointed to the nominated posts by the Government duly mentioning that they shall hold the office during the pleasure of the Governor, as such, their appointments are purely on nomination basis as per the policy of the State. Therefore, the Government has taken a decision vide impugned government orders to terminate the appointment of the petitioners strictly in accordance with Sections 7(2) & 11(1) of the Act, therefore, they are not entitled to claim an opportunity before being terminated from the office as the State Government had taken a policy decision to dispense the services of non-official persons to be appointed as Chairman of the institutions and to replace them with the officials for more effective function of the institution in the interest of the organization by issuing termination simplicitor orders.

It is further contended that, the allegation that no notice or opportunity whatsoever has been afforded to these petitioners and the term of the nominated members and Chairman is three years is absolutely incorrect. The petitioners, suppressing the fact that Section 11(1) of the Act has been amended by Act No.16 of 1990,

obtained interim orders in I.A.No.1 of 2019 dated 26.09.2019. The orders passed by the respondent authorities do not suffer from any discrimination or malafides to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. Therefore, the writ petition filed is misconceived and the same is liable to be dismissed on the ground of '*suppressio veri suggestion falsi'.*

The respondents specifically contended that, as per Section 18-A(1) of the Act, the Government has power to remove the Chairman of A.P. Grandhalaya Parishad and Members of Zilla Grandhalaya Samsthas on allegations like wilful omissions or refuses to carry out or disobeys the provisions of the Act or the Rules, bye-laws or lawful orders made thereunder or abuses his position or powers vested in him and as per Section 18-A(2), the Government has to give an opportunity for explanation for proposed removal and the notification issued under the said sub-section shall contain a statement of the reasons of the Government for the action taken. But, the impugned orders have been passed terminating the petitioners from holding the office does not fall under the provisions of Section 18-A of the Act, as alleged by the petitioners and hence, no explanation need to be called for, in the facts of the present case and no stigma is attached. Therefore, the allegations that the orders have been passed behind their back is absolutely incorrect and the respondents, being the competent authority to implement the policy of the State, has issued impugned orders, which does not suffer from any legal infirmities warranting interference of this Court while exercising power under Article 226 of the Constitution of India.

The respondents contended that, the writ petition is not maintainable, as the Government exercised power conferred under Sections 7(2) and 11(1) of the Act, as amended from time to time and has decided to terminate all the nominated members, so as to reconstitute the officers of A.P. Grandhalaya Parishad at State Level and Zilla Grandhalaya Samsthas at District Level afresh and accordingly issued G.O.Rt.No.244 and G.O.Rt.No.246 dated 17.09.2019 respectively. Further, as per sub-section (1) of Section 12-A of the Act, the Government has also appointed the Commissioner of School Education, A.P., as person in-charge of the A.P. Grandhalaya Parishad at State Level for a period of six months or till appointment of new Chairman, whichever is earlier vide G.O.Rt.No.247 dated 17.09.2019. Similarly, the Government has also appointed Joint Collector-II of the respective districts as person in-charges of the respective Zilla Grandhalaya Samsthas at District Level for a period of six months or till appointment of new Chairman, whichever is earlier, vide G.O.Rt.No.248 dated 17.09.2019, so as to manage the affairs of the Parishad at State Level and of the Zilla Grandhalaya Samsthas at District Level. Accordingly, the appointed person-in-charges have already assumed charge on 18.09.2019 prior to passing of interim orders in their respective offices at State Level and District Level. Therefore, there is no violation of the provisions of the Act and the government orders issued by the Government from time to time in conformity with the provisions of the Act, thereby, the respondents requested to dismiss the writ petition while setting aside the interim order passed in I.A.No.1 of 2019 dated 26.09.2019.

The respondents also filed Photostat copy of the amended Act and it will be considered at appropriate time.

During hearing, Sri Vedula Venkataramana, learned Senior Counsel appearing for the petitioners contended that, Chairman of Andhra Pradesh Grandhalaya Parishad and Members of Zilla Grandhalaya Samsthas in the respective districts are nominated posts and they are pleasure posts. Still, the Government is under obligation to follow the principles of natural justice and disclose the reasons for such removal, affording an opportunity to these petitioners and follow the procedure specified in Section 18-A of the Act. But, no such opportunity was given and no reasons were disclosed and that, as required under Section 18-A of the Act, as such, the pleasure cannot be exercised whimsically by the Executive of the State, while placing reliance on the judgment of the Apex Court in **B.P. Singhal v. Union of India[1].**

Learned Senior Counsel contended that, unnoticingly, the provisions of unamended Act was referred, as the term of the petitioners is three years. On this ground, the writ petition can be dismissed and it does not amount to suppression of any fact.

Whereas, Sri Ponnavolu Sudhakar Reddy, learned Additional Advocate General for the State contended that, by suppressing the amended provisions of the Act, interim order was obtained in I.A.No.1 of 2019 dated 26.09.2019, thereby, committed a serious act of suppression of material fact. On this ground, the petitioners

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[1] (2010) 6 Supreme Court Cases 331

are disentitled to claim the relief of certiorari in the main writ petition.

It is further contended by the learned Additional Advocate General for the State that, tenure of the petitioners is at the pleasure of the Government, as per the amended Act and thereby, for removal of the Chairman of Andhra Pradesh Grandhalaya Parishad and Members of Zilla Grandhalaya Samsthas of respective under the Act, by exercising power under Sections 7(2) and 11(1) of the Act, Governor is not required to disclose the reasons for removal of these petitioners and no notice is contemplated under the Act; thereby, removal/termination of these petitioners from their respective posts is not tainted by any illegalities, irregularities or malafides and it is not an arbitrary or unreasonable act of the State.

It is further contended that, a similar question came up before this Court in W.P.No.33138 of 2014, wherein the learned Single Judge of this Court on 25.08.2015 dismissed the writ petition on the ground that it is a pleasure post by relying on the judgment of the Apex Court in **Kumari Srilekha Vidyarthi v. State of Uttar Pradesh[2], B. Issac Prabhakar v. Government of Andhra Pradesh[3] and A.V. Jinder Singh v. Prakash Singh Badal and others[4].** On the strength of the principles laid down in the above judgments, the learned single Judge of this Court negated the contentions of the petitioners therein who are similarly situated with the present writ petitioners. By applying the

[2] 1991 AIR 537
[3] 1995 (3) ALT 695
[4] AIR 2008 Punjab and Haryana 67

principles laid down in the above judgments, learned Additional Advocate General for the State requested this Court to dismiss the writ petition.

Considering rival contentions, perusing the material available on record, the points that need to be answered are as follows:

1. ***Whether the power conferred on the Governor of the State under Section 7(2) and Section 11(3) of the Act is absolute or restrictive?***
2. ***Whether failure to afford any opportunity before terminating the petitioners from their respective posts as Chairman of A.P. Grandhalaya Parishad and Chairmans of Zilla Grandhalaya Samsthas of Srikakulam, Vizianagaram, West Godavari, Krishna, Prakasam, Nellore, Chittoor, Ananthapuramu, Kadapa and Kurnool is contrary to law and the principle laid down by the Apex Court in B.P. Singhal v. Union of India (referred supra). If so, whether the impugned Government Orders i.e. G.O.Rt.No 244 and G.O.Rt.No.246 dated 17.09.2019 are liable to be set-aside?***
3. ***Whether, appointment of persons-in-charge to A.P. Grandhalaya Parishad and Zilla Grandhalaya Samsthas of various districts by exercising power under Section 12-A of the Act is in accordance with law. If not, G.O.Rt.Nos.247 & 248 dated 17.09.2019 are liable to be set-aside?***

POINT Nos.1 & 2:

As the point Nos.1 and 2 are interconnected, it is appropriate to decide both the points by common discussion, though the pleadings of both the petitioners and respondents are ill-drafted.

Before deciding the factual issue regarding validity of the Government Orders, terminating these petitioners by impugned Government Orders i.e. G.O.Rt.No 244 and G.O.Rt.No.246 dated 17.09.2019, it is appropriate to examine in little detail, the scope of jurisdiction of this Court under Article 226 of the Constitution of India to issue writ of certiorari.

Article 226 of the Constitution of India preserves to the High Court power to issue writ of certiorari amongst others. The

principles on which the writ of certiorari is issued are well-settled. The Seven Judge Bench of the Apex Court in **Hari Vishnu Kamath Vs. Ahmad Ishaque and Ors**[5] laid down four propositions and summarized the principles of the Constitution Bench in **The Custodian of Evacuee Property, Bangalore v. Khan Saheb Abdul Shukoor etc**[6] as under:-

> *"the High Court was not justified in looking into the order of December 2, 1952, as an appellate court, though it would be justified in scrutinizing that order as if it was brought before it under Article 226 of the Constitution for issue of a writ of certiorari. The limit of the jurisdiction of the High Court in issuing writs of certiorari was considered by this Court in Hari Vishnu Kamath Vs. Ahmad Ishaque (referred supra) and the following four propositions were laid down :-*
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> *"(1) Certiorari will be issued for correcting errors of jurisdiction;*
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> *(2) Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice;*
>
> *(3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous.*
>
> *(4) An error in the decision or determination itself may also be amenable to a writ of certiorari if it is a manifest error apparent on the face of the proceedings, e.g., when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision."*

In the exercise of certiorari jurisdiction, the High Court proceeds on an assumption that a Court which has jurisdiction

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[5] (1955) 1 SCR 1104
[6] (1961) 3 SCR 855

over a subject matter has the jurisdiction to decide wrongly as well as rightly. The High Court would not, therefore, for the purpose of certiorari assign to itself the role of an Appellate Court and step into re-appreciating or evaluating the evidence and substitute its own findings in place of those arrived at by the inferior court.

In **Nagendra Nath Bora & Anr. Vs. Commissioner of Hills Division and Appeals, Assam & Ors[7]**, the parameters for the exercise of jurisdiction, calling upon the issuance of writ of certiorari were set out by the Constitution Bench:

> *"The Common law writ, now called the order of certiorari, which has also been adopted by our Constitution, is not meant to take the place of an appeal where the Statute does not confer a right of appeal. Its purpose is only to determine, on an examination of the record, whether the inferior tribunal has exceeded its jurisdiction or has not proceeded in accordance with the essential requirements of the law which it was meant to administer. Mere formal or technical errors, even though of law, will not be sufficient to attract this extra-ordinary jurisdiction. Where the errors cannot be said to be errors of law apparent on the face of the record, but they are merely errors in appreciation of documentary evidence or affidavits, errors in drawing inferences or omission to draw inference or in other words errors which a court sitting as a court of appeal only, could have examined and, if necessary, corrected and the appellate authority under a statute in question has unlimited jurisdiction to examine and appreciate the evidence in the exercise of its appellate or revisional jurisdiction and it has not been shown that in exercising its powers the appellate authority disregarded any mandatory provisions of the law but what can be said at the most was that it had disregarded certain executive instructions not having the force of law, there is not case for the exercise of the jurisdiction under Article 226."*

The Constitution Bench of the Apex Court in **T.C. Basappa v. T. Nagappa & Anr[8]**, held that certiorari may be and is generally granted when a Court has acted (i) without jurisdiction, or (ii) in

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[7] (1958) SCR 1240
[8] (1955) 1 SCR 250

excess of its jurisdiction. Want of jurisdiction may arise from the nature of the subject-matter of the proceedings or in the absence of some preliminary proceedings or the court itself may not have been legally constituted or suffering from certain disability by reason of extraneous circumstances. Certiorari may also be issued if the court or tribunal though competent has acted in flagrant disregard of the rules or procedure or in violation of the principles of natural justice where no particular procedure is prescribed. An error in the decision or determination itself may also be amenable to a writ of certiorari subject to the following factors being available, if the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or disregard of the provisions of law but a mere wrong decision is not amenable to a writ of certiorari.

The Government Orders by which the petitioners were appointed is tabulated as follows:

S.No.	**Name of the petitioner**	**Appointed vide G.O**	**Appointed as**
1	Dasari Raja Master	G.O.Rt.No.81 dated 19.04.2018	Chairman A.P. Grandhalaya Parishad
2	G. Rama Koti Reddy	G.O.Rt.No.2 dated 05.01.2018	Chairman Zilla Grandhalaya Samstha, Kadapa District
3	Y. Venkata Subba Rao	G.O.Rt.No.346 dated 15.11.2018	Chairman Zilla Grandhalaya Samstha, Prakasam District
4	K. Venkataswamy Naidu	G.O.Rt.No.251 dated 17.09.2016	Chairman Zilla Grandhalaya Samstha, Nellore District
5	B. Hanumantha Rao	G.O.Rt.No.41 dated 01.03.2018	Chairman Zilla Grandhalaya Samstha, Krishna District
6	A. Prabhakar Reddy	G.O.Rt.No.63 dated 22.02.2019	Chairman Zilla Grandhalaya Samstha, Kurnool District
7	B.S.S.V. Narasimha Rao	G.O.Rt.No.3 dated 05.01.2018	Chairman Zilla Grandhalaya Samstha, Vizianagaram District

8	P.Vital Rao	G.O.Rt.No.174 dated 09.09.2015	Chairman Zilla Grandhalaya Samstha, Srikakulam District
9	T. Kannaiah Naidu	G.O.Rt.No.200 dated 16.10.2015	Chairman Zilla Grandhalaya Samstha, Chittoor District
10	J. Sreerama Murthy	G.O.Rt.No.177 dated 11.09.2015	Chairman Zilla Grandhalaya Samstha, West Godavari District
11	J. Gouse Mohiuddin	G.O.Rt.No.178 dated 11.09.2015	Chairman Zilla Grandhalaya Samstha, Anantapuram District

Indisputably, Petitioner No.1 was appointed as Chairman of Andhra Pradesh Grandhalaya Parishad. Petitioner Nos. 2 to 11 were appointed as Chairmans of Zilla Grandhalaya Parishad for the districts as mentioned in the table. The petitioners are appointed on nomination basis; their tenure of office is during the pleasure of the Governor of Andhra Pradesh, subject to any further orders to be issued by the Governor of Andhra Pradesh under Section 7(2) and Section 11(3) of the Act. Thus, the petitioners were appointed on nomination basis and their tenure is during the pleasure of the Governor of Andhra Pradesh. But, the petitioners in the affidavit contended that, their term of office is three years in accordance with the pre-amended provisions, but not after amendment. In any view of the matter, as seen from the Government orders; Petitioner No.1 was appointed as Chairman of Andhra Pradesh Grandhalaya Parishad. Petitioner Nos. 2 to 11 were appointed as Chairmans of Zilla Grandhalaya Parishad for the districts as mentioned in the table. At this stage, it is necessary to advert to certain provisions of the amended Act i.e by Act No.16 of 1990. Copy of the notification issued by the Government is

placed on record by Sri Ponnavolu Sudhakar Reddy, learned Additional Advocate General.

By Act No.16 of 1990, the words "during the pleasure of the Governor" is substituted in Section 7(2) and Section 11(3) of the Act, while amending the other provisions which are not relevant at this stage for the purpose of deciding this issue. Hence, in view of the amendment to the Act No.8 of 1960, by Act No.16 of 1990, published in Gazette No.30 on 27.10.1990, the term of the office of these petitioners is during the pleasure of the Governor and the same is echoed in the notifications, issued appointing these petitioners on nomination basis which are placed on record along with the writ petition by Sri Vedula Venkataramana, learned Senior Counsel for the petitioners.

At this stage, it is relevant to advert to certain constitutional provisions, more particularly; Articles 310, 311 of the Constitution of India and provisions of A.P. Public Libraries Act (Pre-amendment and post-amendment) and they are extracted hereunder:

Constitutional provisions	**A.P Public Libraries Act** (Act No. 8 of 1960)	**A.P Public Libraries Act** (Act No. 16 of 1990)
"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	7(2) The Chairman and every member of the Parishad, other than the ex-officio members, shall hold office for a period of **three years** from the date of his nomination. 11(1) Every member of a Zilla Grandhalaya Samstha not being an ex-officio member shall hold office for a period of **three years** from the date of his nomination 11(2) A member nominated to the Zilla Grandhalaya Samstha	7(2) The Chairman and every member of the Parishad, other than the ex-officio member, **shall hold office during the pleasure of the Governor**. 11(1) Every member of a Zilla Grandhalaya Samstha not being an ex-officio member **shall hold office during the pleasure of the Governor.**

holds office during the pleasure of the Governor of the State. (2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor of the State, any contract under which a person, not being a member of a defence service or of an all India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period, that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post."	in his capacity as a holder of particular office shall, if he ceases to be the holder of that office, cease to be member of the Zilla Grandhalaya Samstha] 11(3) Save as otherwise provided in this Act, the term of office of the Chairman of a Zilla Grandhalaya Samstha shall be three years from the date of his nomination as Chairman. The Chairman shall, however, cease to hold office, before the expiration as such term on his ceasing to be a member of the Zilla Grandhalaya Samstha. **18A. Powers of Government to remove chairman of the ZGS. –** (1) The Government may by notifications, remove any chairman of the ZGS, who in their opinion wilfully omits or refuse to carry out or disobeys the provisions of this Act or the rules, bye-laws or law-full orders made there under, or abuses his position or powers vested in him. (2) The Government shall, when they propose to remove a chairman under sub-section (1) , give the chairman concerned an opportunity for explanation, and the notification issued under the said sub-section shall contain a statement of the reasons of the Government for the action taken. (3) The Government shall have power to review any of removal published under sub-section (1) and pending such review to stay such order. (4) Any person removed under sub-section (1) from the office of the chairman shall not eligible for re-election to the said office for a period of three years from the date of his removal.	11(3) Save as otherwise provided in this Act, the term of office of the Chairman of a Zilla Grandhalaya Samstha **during the pleasure of the Governor.** The Chairman shall, however, cease to hold office, before the expiration as such term on his ceasing to be a member of the Zilla Grandhalaya Samstha.

Section 7(2) of the Act deals with tenure of Chairman and every member of the Parishad and Section 11(3) of the Act deals with the tenure of the nominated Chairman of the Zilla

Grandhalaya Samsthas of various districts. But, Section 18-A of the Act is incorporated prescribing the procedure for removal of the Chairman of Zilla Grandhalaya Samsthas. In the year 1990, the tenure was for three years. But, later under Section 7(2) and Sections 11(3) of the Act, it was substituted as "during the pleasure of the Governor". Thus, the pre-amended and post-amended provisions are relevant coupled with Section 18-A of the Act, as such, tenure of three years alone is substituted by words "during pleasure of the Governor" while continuing Section 18-A of the Act.

A close comparison of the provisions of the Constitution of India, more particularly, Articles 310 and 311 of the Constitution of India, it is clear that the power of the President of India or Governor of the State to remove a civil servant is hedged by the procedure prescribed under Article 311 (1) & (2) of the Constitution of India. It is not an absolute power and it is subject to the Rules framed under Article 309 of the Constitution of India, governing the service conditions of civil servant or a person holding a civil post.

At the same time, as per the pre-amended provisions of Andhra Pradesh Public Libraries Act, the tenure of the Chairman and every member of the Parishad is three years, subject to removal by following the procedure prescribed under Section 18-A of the Act. But, after amendment of Andhra Pradesh Public Libraries Act, more particularly, by amending Section 7(2) and Section 11(3) of the Act, the Chairman and A.P. Grandhalaya Parishad and Chairman of Zilla Grandhalaya Samstha shall hold

office during the pleasure of the Governor which is identical to Article 310 of the Constitution of India. But, whereas, the power conferred under Section 18-A of the Act is akin to Article 311(1) & (2) of the Constitution of India, which prescribed special procedure for removal of Chairman Zilla Grandhalaya Samstha from their office. Section 18-A of the Act is still continuing in the Statute. Therefore, the power conferred on the Governor under Section 11(3) of the Act is hedged by the procedure prescribed under Section 18-A of the Act, which is almost identical to Articles 310 and 311 of the Constitution of India. Whereas, no special procedure is prescribed for removal of the Chairman of A.P. Grandhalaya Parishad, similar to Section 18-A of the Act. As can be seen from Section 7(2) of the Act, a Chairman of A.P. Grandhalaya Parishad can be removed at the pleasure of the Governor and such power appears to be absolute.

Time and again, the Apex Court had an occasion to deal with such situation, more particularly, with regard to the power of the Governor to remove the civil servant is absolute or not. In **The State of Bihar vs. Abdul Majid**[9], the larger bench of the Apex Court consisting of Nine Judges, distinguished the power of the Crown in England and powers of the President of India and Governor of the State, observed that, the rule that a civil servant holds office at the pleasure of the Crown has its origin in the latin phrase "***durante bene placito***" **("during pleasure")** meaning that the tenure of office of a civil servant, except where it is otherwise provided by statute, can be terminated at any time without cause

[9] AIR 1954 SC 245

assigned. The true scope and effect of this expression is that even if a special contract has been made with the civil servant the Crown is not bound thereby. In other words, civil servants are liable to be dismissed without notice and there is no right of action for wrongful dismissal, that is, that they cannot claim damages for premature termination of their services. [See Fraser's Constitutional Law, page 126; Chalmer's Constitutional Law, Page 186; Shenton v. Smith [1895] A.C. 229, 234.); Dunn v. The Queen [1896] 1 Q.B. 116.]. This Rule of English law has not been fully adopted in section 240. Section 240 itself places restrictions and limitations on the exercise of that pleasure and those restrictions must be given effect to. They are imperative and mandatory. It follows therefore that whenever there is a breach of restrictions imposed by the statute by the Government or the Crown the matter is justifiable and the party aggrieved is entitled to suitable relief at the hands of the court.

In **Union of India v. Shardindu**[10], the Division Bench of the Apex Court had an occasion to deal with the scope of Articles 310 and 311 of the Constitution of India with reference to **'Pleasure Theory' or 'Doctrine of Pleasure'**. Taking note of the judgment of the Apex Court in **Sukhdev Singh & Ors. v. Bhagat Ram Sardar Singh Raghuvanshi & Another**[11]**,** where the Constitutional Bench of the Apex Court held that, termination of service of an incumbent by the Corporation created by statute without complying with the regulations framed by the Corporation cannot be made. The reason

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[10] 2007 6 SCC 276
[11] (1975) 1 SCC 421

was that the termination contravened the provisions contained in the Regulations. In short, when the appointment is made, the service conditions are laid down. The termination of such appointment could only be made in the manner provided in the statute and by no other way. *Once the regulations have been framed and detailed procedure is laid down therein, then in that case, if the services of an incumbent are required to be terminated, then that can only be done in the manner provided and none else.* Similar view has been taken in the case of **State of Kerala v. Mathai Verghese & Others**[12].

In **Union Of India & Anr v. K.S. Subramanian**[13], the Apex Court considered the scope of Articles 310 & 311 of the Constitution of India. The point before the Apex Court was that, the Central Government servant holds his post at pleasure of President under Article 310 of Constitution authorise, passing of an order of termination of services without assigning any reason whatsoever of holder of post connected with defence; services of respondent not terminated as measure of punishment; *pleasure doctrine is subject to rules or law made under Article 309 of Constitution as well as conditions prescribed under Article 311 of Constitution and there was no rule dealing with conditions under which services are to be terminated and no issue of any disciplinary proceedings and that obligations to follow procedure for punishment is laid down in the rules under provisions of Article 311 of Constitution.* The Apex Court observed that doctrine of office held

[12] (1986) 4 SCC 746
[13] 1976 AIR 2433

at pleasure of President not applied to Article 311 of Constitution and Articles 14 and 16 of Constitution could not be invoked against discrimination and held, protection under Article 311 was not available to respondent therein.

In **Union of India (UOI) and Ors. v. M.M. Sharma**[14] and **Ajit Kumar v. State of Jharkhand**[15]**,** the Division Bench of the Supreme Court held that, the ambit or scope of power to be exercised under Article 311 of the Constitution of India, it is to be noticed that in India we apply the '**doctrine of pleasure'**, which is recognized under our Constitution by way of Article 310 of the Constitution of India. Under the aforesaid provision, all civil posts under the Government are held at the pleasure of the Government under which they are held and are terminable at its will. The aforesaid power is what the doctrine of pleasure is, which was recognized in the United Kingdom and also received the constitutional sanction under our Constitution in the form of Article 310 of the Constitution of India. But in India, the same is subject to other provisions of the Constitution which include the restrictions imposed by Article 310(2) and Article 311(1) and Article 311(2). Therefore, under the Indian Constitution, dismissal of civil servants must comply with the procedure laid down in Article 311, and Article 310(1) cannot be invoked independently with the object of justifying a contravention of Article 311(1). There is an exception provided by way of incorporation of Article 311(2) with Sub-clauses (a), (b) and (c). No such inquiry is required to be

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[14] (2011) 11 SCC 293
[15] (2011) 11 SCC 458

conducted for the purposes of dismissal, removal or reduction in rank of persons when the same relates to dismissal on the ground of conviction or where it is not practicable to hold an inquiry for the reasons to be recorded in writing by that authority empowered to dismiss or remove a person or reduce him in rank or where it is not possible to hold an enquiry in the interest of the security of the State. These three exceptions are recognized for dispensing with an inquiry, which is required to be conducted under Article 311(1) of the Constitution of India when the authority takes a decision for dismissal or removal or reduction in rank in writing. *In other words, although there is a pleasure doctrine, however, the same cannot be said to be absolute and the same is subject to the conditions that when a government servant is to be dismissed or removed from service or he is reduced in rank a departmental inquiry is required to be conducted to enquire into his misconduct and only after holding such an inquiry and in the course of such inquiry if he is found guilty then only a person can be removed or dismissed from service or reduced in rank.* However, such constitutional provision as set out under Article 311(1) of the Constitution of India could also be dispensed with under the exceptions provided in Article 311(2) of the Constitution, subject to Clauses (a), (b) & (c). The aforesaid power is an absolute power of the disciplinary authority who after following the procedure laid down therein could resort to such extra ordinary power provided; it follows the pre-conditions laid down therein meaningfully and effectively.

In view of the law laid down by the Apex Court in all the judgments referred supra is with reference to removal or termination or reduction of rank of a civil servant. Though the petitioners are not the civil servants, but their appointment is governed by the provisions of Andhra Pradesh Public Libraries Act, 1960 where different provisions mentioned in the table laid down the term of the office of the petitioners i.e. Section 7(2), Section 11(3) of the Act. The procedure for removal of the Petitioner Nos. 2 to 11 who were appointed as Chairmans of Zilla Grandhalaya Parishad for the districts as mentioned in the table, is laid down in Section 18-A of the Act. These two provisions are similar to Article 310 and Article 311 of the Constitution of India. Whereas, for removal of Chairman of A.P. Grandhalaya Parishad, no procedure is laid down in the Act.

When the provisions of Andhra Pradesh Public Libraries Act are analogous to Articles 310 and Article 311 of the Constitution of India for removal and when the Act is passed by the State by exercising powers under the Indian Constitution, the Rules framed under the Act are to be adhered to while exercising power by the Governor of the State to remove the Petitioner Nos. 2 to 11 as Chairmans of Zilla Grandhalaya Samsthas. Such power to remove the petitioner Nos. 2 to 11 is subject to holding an enquiry as enunciated under Section 18-A of the Act. As long as the procedure is prescribed for removal of the petitioner Nos. 2 to 11 as Chairmans of Zilla Grandhalaya Samsthas, such prescribed procedure under Section 18-A of the Act shall be adhered to, since the power of the Governor is not absolute and it is subject to

Section 18-A of the Act. Therefore, the power of the Governor under the Act contained in Section 11(3) is not absolute and it is subject to compliance of Section 18-A of the Act, as long as Section 18-A is continuing in the statute book. In the absence of Section 18-A of the Act, the power of the Governor can be said to be absolute, thus, the Doctrine of Pleasure that can be exercised by the Governor is ***restrictive*** in nature.

The Apex Court in **B.P. Singhal v. Union of India** (referred supra) has drawn the distinction between the Doctrine of Pleasure in England and in India, while holding that the Doctrine of Pleasure is not only absolute, but also restrictive, subject to the constitutional provisions and rules famed regulating the service of a civil servant or any person holding the post during pleasure of the Governor.

Going further to decide the issue, it is appropriate to analyze the **'Doctrine of Pleasure'** contained in Articles 155 and 156 of the Constitution of India, so also, Article 74 and Section 7(2) & Section 11(3) of the Act. A distinction has been drawn between 'Doctrine of Pleasure' applicable in United Kingdom and in India in **B.P. Singhal v. Union of India** (referred supra), referring certain paragraphs in renowned book.

H.M. Seervai, in his treatise `Constitutional law of India' (4th Ed., Vol. 3, pp.2989-90) explains this English Crown's power to dismiss at pleasure in the following terms:

> *"In a contract for service under the Crown, civil as well as military, there is, except in certain cases where it is otherwise provided by law,*

imported into the contract a condition that the Crown has the power to dismiss at pleasure....Where the general rule prevails, the Crown is not bound to show good cause for dismissal, and if a servant has a grievance that he has been dismissed unjustly, his remedy is not by a law suit but by an appeal of an official or political kind......If any authority representing the Crown were to exclude the power of the Crown to dismiss at pleasure by express stipulation, that would be a violation of public policy and the stipulation cannot derogate from the power of the Crown to dismiss at pleasure, and this would apply to a stipulation that the service was to be terminated by a notice of a specified period of time. Where, however, the law authorizes the making of a fixed term contract, or subjects the pleasure of the Crown to certain restrictions, the pleasure is pro tanto curtailed and effect must be given to such law."

Black's Dictionary defines `Pleasure Appointment' as the assignment of someone to employment that can be taken away at any time, with no requirement for notice or hearing.

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 rule of law. In a nineteenth century feudal set-up 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 public good.

The following classic statement from Administrative Law (HWR Wade & CF Forsyth - 9th Ed. - Pages 354-355) 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 government 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 motive. 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."*
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> *(emphasis supplied)*

From a bare reading of the principles of Administrative Law; the meaning of 'Doctrine of Pleasure' and its limitations, it is clear that, such discretionary power has to be exercised only for the public good. The Apex Court also discussed the three kinds of pleasures. Constitution of India thus provides for three different types of tenure:

(i) Those who hold office during the pleasure of the President (or Governor);

(ii) Those who hold office during the pleasure of the President (or 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. Constitutional 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 doctrine of pleasure applied with restrictions (Members of defence service, Members of civil service 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 Supreme Court, Comptroller & Auditor General of India, Judges of the High Court, 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.

In the present facts of the case, the petitioner Nos. 2 to 11 are holding the office during the pleasure of the Governor of Andhra Pradesh with restrictions, as discussed in the earlier paragraphs. When the Governor is vested with the power to remove these petitioners, such removal cannot be an order simplicitor removing the petitioners Nos. 2 to 11 without holding an enquiry as specified under Section 18-A of the Act. Therefore, the petitioners Nos. 2 to 11 whether or not holding the post on tenure basis or during pleasure of the Governor with restriction cannot be removed without following principles of natural justice, without affording any opportunity and without following procedure under Section 18-A of the Act.

Whereas, Petitioner No.1 who was appointed as Chairman of A.P. Grandhalaya Parishad can be removed by the Governor without any inquiry, but, such discretionary power has to be exercised only for the public good, at the same time, the principle laid down in **B.P. Singhal v. Union of India** (referred supra) has to be followed scrupulously.

“Doctrine of Pleasure" under which certain authorities hold office till he or she enjoys the confidence of the President or the Governor is not absolute and unrestricted. 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, the Court can interfere if such actions have been taken arbitrarily and the government have to explain before it. 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. Withdrawal of pleasure cannot be at the sweet will, whim and fancy of the Authority, but can only for valid reasons," "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 rule of law prevails, there is nothing like unfettered discretion or unaccountable action," “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.

Finally, the Apex Court in **B.P. Singhal v. Union of India** (referred supra) laid down the following principles:

> *(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 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, malafide, 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 malafide, 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.*

In view of the principles laid down by the Apex Court in **B.P. Singhal v. Union of India** (referred supra), it is necessary to advert to the office file relating to passing of G.O.Rt.Nos. 244 & 246 dated 17.09.2019. On the directions issued by this Court,

Sri Ponnavolu Sudhakar Reddy, learned Additional Advocate General representing the State produced Photostat copy of the file relating to passing of G.O.Rt.Nos.244 & 246 dated 17.09.2019. The proceedings are commenced on 27.08.2019 by issuing Memo No.2818339/ Ser.I(2)/2019, where the Deputy Secretary to the Government requested the Director of Public Libraries, A.P., Mangalagiri to furnish a list of existing Chairmen and Members of A.P. Grandhalaya Parishad and 13 Zilla Grandhalaya Samsthas in the State duly informing that if any Court cases are pending. In view of the request made by the Deputy Secretary to the Government in the Memo, the Director of Public Libraries vide letter dated 28.08.2019 in Rc.No.36-B1/2019 furnished the details of Governing Bodies of A.P Grandhalaya Parishad and 12 Grandhalaya Samsthas in the State. Thereafter, draft notifications were prepared to remove the petitioners by exercising power under Section 7(2) and Section 11(1) of the Act.

Vide G.O.Rt.No.246 dated 17.09.2019, the Governor by exercising power conferred under Section 7(2) of the Act, terminated the appointments of existing nominated Chairman and Members of A.P. Grandhalaya Parishad and issued G.O.Rt.No.247 dated 17.09.2019 appointing Commissioner of School Education, A.P., as person-in-charge of A.P. Grandhalaya Parishad for a period of six months or till appointment of new Chairman, whichever is earlier.

Similarly, vide G.O.Rt.No.244 dated 17.09.2019, the Governor by exercising power under Sub-section (1) of Section 11

of the Act, terminated the appointments of existing nominated Chairmen and Members of Zilla Grandhalaya Samsthas of Srikakulam, Vizianagaram, East Godavari, West Godavari, Krishna, Guntur, Prakasam, Nellore, Chittoor, Anantapur, Kadapa, Kurnool, except Visakhapatnam District and vide G.O.Rt.No.248 dated 17.09.2019 the Governor by exercising power under Sub-section (1) of Section 12-A of the Act, appointed Joint Collector-II (who is looking after Education in the District) as person-charge of the above districts for a period of six months or till appointment of new Chairman, whichever is earlier.

According to G.O.Rt.Nos.244 & 246 dated 17.09.2019, the Governor by exercising power under Section 7(2) and 11(1), since the petitioner Nos. 2 to 11 are the Chairman of Zilla Grandhalaya Samsthas), terminated the appointment of exiting nominated Chairman of A.P. Grandhalaya Parishad and Zilla Grandhalaya Samsthas of Srikakulam, Vizianagaram, East Godavari, West Godavari, Krishna, Guntur, Prakasam, Nellore, Chittoor, Anantapur, Kadapa, Kurnool, except Visakhapatnam District, as on date of issue of notification with immediate effect.

Prima facie material on record show that, there is no reason for exercising such power by the Governor to terminate the petitioners, while exercising power under Section 7(2) or Section 11(3) of the Act. Even, no opportunity was afforded to these petitioners before passing such government orders. The Governor exercised such powers as if it is absolute power, ignoring Section 18-A of the Act for removal of petitioner Nos. 2 to 11 and ignored

the principle laid down in **B.P. Singhal v. Union of India** (referred supra), while terminating the first petitioner.. In the absence of Section 18-A of the Act, power of the Governor can be said to be absolute, but, as long as it is continuing in the statute book, the power of the Governor to remove the petitioner Nos. 2 to 11 by applying pleasure theory as contained under Section 11(3) of the Act is ***"restrictive"***. Therefore, in the absence of any enquiry conducted under Section 18-A of the Act, termination of these petitioner Nos. 2 to 11 from their respective offices is illegal, arbitrary and contrary to law. Similarly, removal of first petitioner without assigning any reason and without affording any opportunity as held in **B.P. Singhal v. Union of India** (referred supra) is illegal.

In **Om Narain Agarwal v. Nagar Palika, Shahjahanpur**[16] a question arose before the Apex Court as to whether a nominated member of the Municipal Council can be removed from the post, as the tenure depends upon the pleasure of the Chairman. Wherein the Court held that the nominated members of the Board fall in a different class and cannot claim equality with the elected members. The Court was 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. The Court found no 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

[16] (1993) 2 SCC 242

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, hence, removal of a member from the board exercising power by the Chairman is justified. This principle is in support of the respondents. However, the Act of removal of the Board members and their tenure is governed by Municipalities Act, but no specific procedure is laid down for removal of nominated members, in such case, the pleasure is absolute. Therefore, the principle laid down by the Apex Court in **Om Narain Agarwal v. Nagar Palika, Shahjahanpur** (referred supra) cannot be applied to the present facts of the case, as the statue contained a special rule permitting to conduct enquiry for removal of Chairmans of Zilla Grandhalaya Samsthas. Distinguishing the facts of the present case with the facts of the above case, it is difficult to accept the contention of Sri Ponnavolu Sudhakar Reddy, learned Additional Advocate General.

In **Unjha Agricultural Produce Market Committee and others v. State of Gujarat**[17] before the Gujarat High Court, the question was, removal of nominated members from the Market Committee by exercising power under Section 54 of Gujarat Agricultural Produce Markets Act that conferred on the authority

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[17] 1999(1) GLR 406

by invoking Pleasure Doctrine. In the facts of the case, Section 54(3) of the Gujarat Agricultural Produce Markets Act conferred power on Government to appoint its nominees and within the outer limit set out in the provision such power can be exercised from time to time since there is no inner limit or minimum limit which would circumscribe and negative such a power and when Section 54 (3) of the Markets Act is exercised again by way of replacement of the nominees or any of them, no stigma attaches on the outgoing nominees although there might be occasion or reason other than political considerations for such replacement. Thus, it has to be found that pleasure doctrine is clearly implied in the provision of Section 54, more particularly Section 54(3) of the Markets Act.

In **Dattaji Chirandas v. High Court of Gujarat[18]**, the Court examined the question of removal of the Chairman of the Government Companies/ Corporation by invoking the pleasure doctrine. The Apex Court held that, the idea underlying the provisions of the Act was clearly to see that the purity of the educational stream does not get vitiated and the autonomous education Bodies are left free to follow their course for attaining higher goals in the filed of education. The absence of such a statutory provision in the Saurashtra University Act appears to have been held to be fatal to the case of the Government for invoking the applicability of the pleasure doctrine.

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[18] AIR 1999 Guj 48

In **Krishna, S/o. Bulaji Borate v. State of Maharashtra**[19], the challenge before Supreme Court was about removal of the nominated trustee from the office of the State Government at any time as provided under Section 6 of the Nagpur Improvement Trust Act, 1936. In the context of the provisions of the said Act, the Supreme Court has held as follows:-

> *"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."*

One of the contentions raised by Sri Ponnavolu Sudhakar Reddy, learned Additional Advocate General before this Court is that, Section 18A(1) & (2) of the Act prescribed procedure for removal of the petitioners herein on certain grounds and they are as follows:

> ***18A. Powers of Government to remove chairman of the ZGS. –***
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> *(1) The Government may by notifications, remove any chairman of the ZGS, who in their opinion willfully omits or refuse to carry out or disobeys the provisions of this Act or the rules, bye-laws or law-full orders made there under, or abuses his position or powers vested in him.*
>
> *(2) The Government shall, when they propose to remove a chairman under sub-section (1) , give the chairman concerned an opportunity for explanation, and the notification issued under the said sub-section shall contain a statement of the reasons of the Government for the action taken*

While interpreting the 'Doctrine of Pleasure' contained under Section 7(2) and Section 11(3) of the Act, other provisions of the Act must also be examined to find out whether such pleasure can be exercised by the Governor with or without any restriction.

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[19] (2001) 2 SCC 441

Originally, the office of the Chairman was for three years under the Act. But, to remove the Chairmans of Zilla Grandhalaya Samstha from the office before expiry of tenure is contained under Section 18-A(1) of the Act. Section 18-A of the Act is incorporated to enable the Government to remove the Chairmans of Zilla Grandhalaya Samsthas only, who are appointed on nomination basis under the provisions of the Act. But, after amending Section 7(2) and Section 11(3) of the Act, substituting the words "during pleasure of the Governor" for the words "three years", Section 18-A was allowed to remain in the statute book. If, all these provisions, more particularly, Section 11(3)) and Section 18-A of the Act are read in conjunction, it is highly difficult for me to reconcile the provisions with one another. When the Governor is vested with the power to remove the petitioner Nos. 2 to 11 appointed on nomination basis under the provisions of the Act by exercising discretionary power i.e. pleasure by the Governor, the question of removing the nominated Chairmans of Zilla Grandhalaya Samstha by exercising power under Section 18-A of the Act does not arise. When such power is vested on the Governor, question of issuing notice, following the procedure contemplated under Section 18-A(2) of the Act becomes redundant or otiose. In such case, allowing Section 18-A to remain on the statute book creates lot of confusion as to exercise of power by the Governor under Section 11(3) of the Act. Therefore, in view of Section 18-A of the Act, such nominated persons can be removed, who in their opinion wilfully omits or refuse to carry out or disobeys the provisions of this Act or the rules, bye-laws or law-full

orders made there under, or abuses his position or powers vested in him. If, such procedure is compelled to be followed by the Government to remove nominated Chairmans of Zilla Grandhalaya Samsthas under the Act, the power conferred on the Governor is restrictive and it becomes redundant or otiose. Hence, I find that there is any amount of conflict between Section 11(3) and Section 18-A of the Act. Though the Legislators amended Section 7(2) and Section 11(3) of the Act appropriately to exercise power of removal by the Governor, they did not amend Section 18(A) appropriately to avoid such conflict between these two provisions. In the presence of Section 18-A in the Act, it is difficult to hold that the power of the Governor is unrestricted.

In any view of the matter, in terms of the judgment of the Apex Court in **B.P. Singhal v. Union of India** (referred supra), 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 and public good.

As seen from the file produced before this Court by the State, it does not disclose any specific reason, except change of political party in power and the removal was not for valid reasons or for public good.

Sri Ponnavolu Sudhakar Reddy, learned Additional Advocate General for the State also relied on Paragraph Nos. 26,31,80 & 83 of **B.P. Singhal v. Union of India** (referred supra). In Paragraph No.31, in first and second categories, the Court discussed about unrestricted and restricted power i.e to exercise pleasure and the third category of holding office for specified terms with immunity against removal, except by impeachment, like Judges of Supreme Court and High Court, Election Commissioner of India etc. But, that is not relevant for the purpose of deciding the present controversy.

One of the contentions of the learned Additional Advocate General is that, the Court cannot exercise power under Article 226 of the Constitution of India to interfere with the order passed by the Governor exercising power under Section 7(2) and 11(3) of the Act. In support of his contentions, he has drawn the attention of this Court to Paragraph No.80 of the judgment in **B.P. Singhal v. Union of India** (referred supra), where the Apex Court held that the extent and depth of judicial review will depend upon and vary with reference to the matter under review. As observed by Lord Steyn in **Ex parte Daly**[20], in law, context is everything, and intensity of review will depend on the subject-matter of review. For

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[20] 2001 (3) All ER 433

example, judicial review is permissible in regard to administrative action, legislations and constitutional amendments. But the extent or scope of judicial review for one will be different from the scope of judicial review from other. *Mala fides* may be a ground for judicial review of administrative action but is not a ground for judicial review of legislations or constitutional amendments. For withdrawal of pleasure in the case of a Minister or an Attorney General, loss of confidence may be a relevant ground. The ideology of the Minister or Attorney General being out of sync with the policies or ideologies of the Government may also be a ground. On the other hand, for withdrawal of pleasure in the case of a Governor, loss of confidence or the Governor's views being out of sync with that the Union Government will not be grounds for withdrawal of the pleasure. The reasons for withdrawal are wider in the case of Ministers and Attorney-General, when compared to Governors. As a result, the judicial review of withdrawal of pleasure, is limited in the case of a Governor, whereas, virtually nil in the case of a Minister or an Attorney General.

Even according to this, order of removal of these petitioners can be challenged before this Court by invoking Article 226 of the Constitution of India, but, interference of this Court while exercising power of judicial review in withdrawal of pleasure is limited. The same principle is applicable even to the present facts of the case. The only reason appears for termination of the petitioners from the office of Chairman of A.P. Grandhalaya Parishad and Zilla Grandhalaya Samsthas is the change of political

party in power in the quinquennial elections for the Assembly and for other constituencies.

At this stage, it is profitable to refer to the principle laid down by the High Court in **Ex. Major N.R. Ajwani & Ors. v. Union of India**[21], where the issue was referred to a Full Bench of the High Court to ascertain "Whether the order of termination passed by and in the name of the President under Section 18 of the Army Act read with Article 310 invoking the doctrine of pleasure of the President can be challenged on the ground that it is camouflage and as such, violative of principles of natural justice and the fundamental right guaranteed under Article 14 of the Constitution of India. It was held that the concept of camouflage is a facet of judicial review and the Court would lift the veil in all cases where it appears that the power is used for collateral purposes under the cloak or garb of innocuous form of an order and determine the true character of the order under challenge. Therefore, an order under Section 18 of the Army Act read with Article 310 of the Constitution invoking the doctrine of pleasure of President is subject to judicial review to ascertain whether the same is exercised lawfully and not vitiated by *mala fides* or based on extraneous grounds and that order can be challenged on the ground that it is a camouflage.

From the law declared by the Apex Court and Gujarat High Court in the judgments referred above, it is clear that, such power has to be exercised only in accordance with the provisions of the

[21] (1994) SLT 217

statute and the Doctrine of Pleasure, as enshrined under Article 310 of the Constitution of India must be read in consonance with the principle laid down in **B.P. Singhal v. Union of India** (referred supra). On examining the record and provisions which permitted the Government to terminate the petitioners from their respective offices, exercising power under Section 7(2) and Section 11(3) of the Act, if, any reason is found in the file to terminate these petitioners from their offices (nominated posts) under the Act, the orders impugned in the writ petition cannot be faulted. In the absence of any reason for removal of the Chairmans of A.P. Grandhalaya Parishad and Zilla Grandhalaya Samsthas or enquiry under Section 18-A of the Act for removal of Chairmans of Zilla Grandhalaya Samsthas, the State Act in passing the impugned government orders is illegal, arbitrary and without any sanction of law.

If, the principles laid down in the above judgments are applied to the present facts of the case, the Court can interfere with the Government Orders impugned in the writ petition and in the absence of any specific provision for removal of these petitioners in the statute, specifying the procedure, removal can be said to be justifiable But, in the present case, there is a special provision which deals with the procedure for removal of Chairman of Zilla Grandhalaya Samsthas i.e Section 18-A of the Act. However, it is evident that the power of the Governor is subject to restrictions incorporated under Section 18-A of the Act to remove Chairmans of Zilla Grandhalaya Samsthas.

On close analysis of the law declared by the Apex Court in various judgments referred supra and the provisions of the A.P. Public Libraries Act, 1960, the State is under obligation to follow the procedure prescribed under Section 18-A of the Act for removal of the petitioner Nos. 2 to 11 and for removal of petitioner No.1, the Government has to follow the principle laid down in **B.P. Singhal v. Union of India** (referred supra). But, without following any such procedure and the principle laid down in **B.P. Singhal v. Union of India** (referred supra), the petitioners were terminated from the respective offices as if the power conferred on the Governor is absolute and unrestricted. Hence, G.O.Rt.Nos.244 & 246 dated 17.09.2019 issued by the Governor by exercising power under Section 7(2) and Section 11(1) of the Act i.e. Doctrine of Pleasure of the Governor for termination of the petitioners from their office by applying Pleasure Theory without conducting any enquiry for removal of petitioner Nos. 2 to 11 and without following the principle laid down in **B.P. Singhal v. Union of India** (referred supra) is illegal and arbitrary, since no opportunity was afforded to these petitioners, it is totally based on political considerations.

Yet, another lacuna in G.O.Rt.No.244 dated 17.09.2019 is that, the Chairmans of Zilla Grandhalaya Samsthas were terminated by exercising power under Section 11(1) of the Act. The power under Section 11(1) can be exercised only for termination of Members of Zilla Grandhalaya Samsthas, and not for termination of Chairmans. Therefore, termination of the petitioner Nos. 2 to 11, who were appointed as Chiarmans of Zilla Grandhalaya Samsthas exercising power under Section 11(1), as mentioned in

G.O.Rt.No.244 dated 17.09.2019, the termination of the petitioner Nos. 2 to 11 is illegal and contrary to the statutory provision. On this ground also, the G.O.Rt.No.244 dated 17.09.2019 is liable to be set-aside.

Sri Ponnavolu Sudhakar Reddy, learned Additional Advocate General placed reliance on unreported judgment of this Court in Writ Petition No.33138 of 2014 between "Bommareddy Venkata Naga Chandra Reddy and 2 others v. The State and 4 others" dated 25.08.2015. In the said judgment, learned Single Judge of this Court placed reliance on "**Kumari Shrileka Vidyarthi v. State of U.P. and others**[22]", "**B.Issac Prabhakar v. Government of Andhra Pradesh Represented by its Principal Secretary, Hyderabad and others**[23]" and "**Avjinder Singh Sibia v. S.Prakash Singh Badal**[24]"

The reason assigned by the learned single Judge of this Court is that Section 18A of the Act makes it abundantly clear that the invocation of section arises only when the action is contemplated for any lapses on the part of the Chairman but the impugned order in the case on hand is termination simplecitor and not in the circumstances stipulated in the said provision of law. Therefore, as pointed out rightly by the learned Additional Advocate General, the said provisions have no relevance to the impugned action, as such, the impugned action need not be preceded by any notice and opportunity of being heard. Since the post in the said case is a pleasure post as per the language

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[22] AIR 1991 Supreme Court 537 (1)
[23] 1995 (3) ALT 695 (D.B.)
[24] AIR 2008 Punjab and Haryana 67

employed under Section 11 of the Act, the impugned action cannot be faulted in view of the law laid down in the judgments referred in W.P.No.33138 of 2014.

Undoubtedly, learned single Judge held in favour of the State in a similar circumstances when the Chairmen of Zilla Grandhalaya Samsthas were terminated as the tenure is based on pleasure of the Governor. But the learned single Judge did not consider the judgment of the Apex Court in **B.P. Singhal v. Union of India** (referred supra), which is almost identical to the facts of the present case. At the same time, learned single Judge of this Court did not consider the scope of Article 310 and 311 (1) of the Constitution of India, which are similar to Section 11 (3) and 18 –A of the Act. Therefore, I am afraid to apply the principle laid down by the learned single Judge of this Court in W.P.No.33138 of 2014 to the present facts of the case in view of the judgment of the Apex Court in **B.P. Singhal v. Union of India** and other judgments (referred supra). Hence, I am unable to agree with the contention of Sri Ponnavolu Sudhakar Reddy, learned Additional Advocate General while rejecting his contention.

The Supreme Court in **B.P. Singhal v. Union of India** (referred supra) made it clear that, removal of Governor on political considerations is illegal and arbitrary. Accordingly, the point Nos. 1 and 2 are decided in favour of the petitioners and against the respondents.

P O I N T No.3

One of the contentions raised before this Court by the petitioners is that, appointment of persons in-charge, both for A.P. Grandhalaya Parishad and Zilla Grandhalaya Samsthas is contrary to Section 12-A of the Act. However, the respondents filed counter affidavit explaining the reason for appointment of persons-in-charge in the counter affidavit specifically contending that, as per Subsection (1) of Section 12-A of the Act, the Government have also appointed the Commissioner of School Education, A.P., as person in-charge of the A.P. Grandhalaya Parishad at State Level for a period of six (6) months or till appointment of new Chairman, whichever is earlier vide G.O.Rt.No.247 dated 17.09.2019. Similarly, the Government have also appointed Joint Collector-II of the respective districts as person in-charges of the respective Zilla Grandhalaya Samsthas at District Level for a period of six (6) months or till appointment of new Chairmen, whichever is earlier, vide G.O.Rt.No.248 dated 17.09.2019, so as to manage the affairs of the Parishad at State Level and of the Zilla Grandhalaya Samsthas at District Level. Accordingly, the appointed person-in-charges have already assumed charge on 18.09.2019, prior to the passing of interim orders in their respective offices at State level and District level. Therefore, there is no violation of the provisions of the Government Orders issued by the Government from time to time in conformity with the provisions of the Act. Thus, the respondents admitted about appointment of person-in-charge. At the same time, the respondents in the counter affidavit explained the reason for appointment of person-in-charge. The respondents

in categorical terms stated that the Government has taken a decision vide impugned government orders to terminate the petitioners strictly in accordance with Section 7(2) and Section 11(1) of the Act. Therefore, they are not entitled to claim as a Chairmans, after termination from the office, as the State Government had taken a policy decision to dispense with the services of non-official persons to be appointed as Chairmans of the institutions and to replace them with the officials for more effective functioning of the institution in the interest of the organization by issuing termination simplicitor orders. It is clear from the allegations made in the counter affidavit that the intention of the Government is to remove the Chairmans forever and entrust the management of the libraries to officials for better and effective functioning of the institution and not intended to appoint any other person in the place of the petitioners after their termination. Therefore, it is evident from the judicial admission in the counter affidavit that the State Government is not intended to fill the office of A.P. Grandhalaya Parishad and Zilla Grandhalaya Samsthas by non-officials as Chairman of A.P. Grandhalaya Parishad and Zilla Grandhalaya Samsthas, for management of the institution who took a policy decision to entrust the management of the institution to the officials. The reason mentioned therein is not appearing anywhere in the entire Photostat copy of the file produced before this Court on directions.

The main endeavour of the petitioners is that, a person-in-charge can be appointed only when there is a delay in constitution of the committee in accordance with Section 3 of the Act and

constitution of Zilla Grandhalaya Samsthas for the twin cities of Hyderabad and Secunderabad under Subsection (1) of Section 10 or Zilla Grandhalaya Samsthas for the Districts under Subsection (2) of Section 10 or nomination of Chairman of Zilla Grandhalaya Samsthas under Subsection (3) of Section 10 of the Act. According to Section 12-A(1) of the Act, the Government may appoint a person or persons to manage the affairs of the committee or of the Zilla Grandhalaya Samstha or to perform the functions of the Chairman, as the case may be, for a period of not exceeding six months and they may in the like manner from time to time extend such period beyond six months.

Thus, a bare look at Section 12-A(1) of the Act, it is apparent that a person-in-charge can be appointed only when there is a delay to constitute committees in terms of Section 3 of the Act. Section 3 of the Act deals with establishment and composition of the Andhra Pradesh Grandhalaya Parishad for it's administration, both at State and District Level. Therefore, only in the case of particular contingency as enunciated in Section 12-A(1) of the Act, a person-in-charge ca be appointed. But, here, the circumstances are totally different as explained in the counter affidavit and these petitioners were terminated abruptly by taking serendipitous decision by the Government for political reasons due to change of political party in power in the quinquennial elections.

In paragraph No.7 of the counter affidavit, a specific allegation is made that the respondents intended to appoint persons-in-charge to manage the affairs of the institution. In

paragraph No.5 of the counter affidavit, it is averred that the Government has taken a policy decision to dispense with the services of non-official persons to be appointed as Chairman of the institutions and to replace them with the officials for more effective functioning of the institution in the interest of the organization by issuing simplicitor orders. Thus, the intention behind termination of these petitioners from the office apparently is that, the State is intended to replace the officials permanently in the place of these petitioners which is in violation of Section 12-A(1) of the Act. Section 12-A(1) permits appointment of persons-in-charge only when there is delay in constitution of the committees in accordance with the provisions of Section 3 of the Act for a total period of six months at a time and not exceeding two years in total. When there is a clear bar for appointing person-in-charge not exceeding two years in total, the question of replacing the official respondents in the place of these petitioners as averred in paragraph No.5 of the counter affidavit is totally abuse of power by the Government to deprive these petitioners to enjoy the benefits of the office and serve the institution. In the absence of amendment to Section 3 and Section 12-A(1) of the Act, appointment of person-in-charge for the libraries under Section 7(2) and Section 11(3) of the Act permanently to manage the affairs of the institution is arbitrary exercise of power and in violation of Section 12-A(1) of the Act, though, the libraries are under the control of the Government in terms of Section 7(c) of the Act. Therefore, the decision taken by the Government styling it as a policy decision to replace the Chairman of A.P. Grandhalaya Parishad and Chairmans of Zilla

Grandhalaya Samsthas by appointing the officials as persons-in-charge of the institutions vide G.O.Rt.Nos.247 & 248 dated 17.09.2019 based on the specific reason mentioned in Paragraph No.5 of the counter affidavit is a grave illegality and it is in violation of Section 12-A(1) of the Act. Therefore, appointment of officials as persons-in-charge permanently with an intention to replace the petitioners is an arbitrary exercise of power.

At the same time, the language employed in Section 12-A(1) of the Act is clear that, only when there is a delay in constitution of committees under Section 3 of the Act, a person-in-charge can be appointed. But, here, the petitioners were terminated by the Government by issuing G.O.Rt.No.244 and G.O.Rt.No.246 dated 17.09.2019. There may be a delay in constituting committees under Section 3 of the Act. In G.O.Rt.Nos.247 & 248 dated 17.09.2019, it is clearly mentioned that the persons-in-charge were appointed for a period of six months or till appointment of new Chairman, whichever is earlier. Therefore, it is explicit from G.O.Rt.Nos.247 & 248 dated 17.09.2019 that the Government is intended to appoint new Chairman and did not take any policy decision, as averred in Paragraph No.5 of the counter affidavit to replace any officials by appointing officials as persons-in-charge of the Andhra Pradesh Grandhalaya Parishad and Zilla Grama Samsthas. The pleadings in Paragraph No.5 of the counter affidavit are totally contrary to the intention expressed in G.O.Rt.Nos.247 & 248 dated 17.09.2019. Therefore, in view of the inconsistency between the Government Orders and the pleadings in Paragraph No.5 of the counter affidavit, it is difficult to uphold the contention

of the respondents that a policy decision was taken to replace the non-official Chairmans with the officials without amendment to Section 3 and Section 12-A(1) of the Act is not acceptable. The intention behind issue of G.O.Rt.Nos.247 & 248 dated 17.09.2019 is apparent from the material on record that these petitioners were terminated from the office due to political reasons on account of change of political party in power in the elections. Such removal is illegal and arbitrary, in view of the principle laid down by the Apex Court in **B.P. Singhal v. Union of India** (referred supra). Hence, appointment of the officials as persons-in-charge of the Andhra Pradesh Grandhalaya Parishad and Zilla Grandhalaya Samsthas is illegal, arbitrary and violative of Section 12-A(1) of the Act.

The petitioners claimed writ of certiorari, for quashment of the government orders, whereas, the respondents contended that, in pursuance of the impugned government orders, the persons-in-charge took charge of their office of Andhra Pradesh Grandhalaya Parishad and Zilla Grandhalaya Samsthas; they are discharging their duties, as averred in Paragraph No.7 of the counter affidavit. When once this Court on verifying the record held that, G.O.Rt.No.244 and G.O.Rt.No.246 dated 17.09.2019 are invalid, if, for any reason, the persons-in-charge are discharging their duties as stop-gap arrangement, these petitioners shall resume their charge of the office consequent upon setting-aside the government orders. In such case, the writ of certiorari alone is not sufficient, but the Court can mould the relief and issue a writ of *certiorarified mandamus.* It consists of two writs i.e. Certiorari and Mandamus. Mere issue of Writ of Certiorari would not serve any purpose,

unless it is accompanied by Writ of Mandamus, when the persons-in-charge appointed under the Government Orders took charge before passing interim order. In such case, a Certiorarified Mandamus is the appropriate remedy. Therefore, I find that it is a fit case to mould the relief to issue *certiorarified mandamus* which is suitable in view of the pleadings of the respondents.

Merely on the ground that, the petitioners claimed only Writ of Certiorari, the plea of the respondents cannot be applied, since power is vested to issue suitable writ or direction appropriate in the circumstances of the case. Hence, the Writ petition cannot be dismissed based on the claim of the petitioners in the writ petition. Accordingly, the point is held in favour of the petitioners and against the respondents.

In view of my foregoing discussion, I hold that;

(a) The power of the Governor under Section 7(2) and Section 11(3) of the A.P. Public Libraries Act, 1960 is not absolute and it is restrictive;

(b) The power of the Governor under Section 11(3) of the A.P. Public Libraries Act, 1960, can be exercised only on compliance of the procedure prescribed under Section 18-A of the Act, since the power of the Governor to terminate the petitioner Nos.2 to 11 under Section 11(3) of the Act is restricted;

(c) The petitioner Nos. 2 to 11 were terminated without conducting any enquiry under Section 18-A of the Act, without affording any opportunity and thereby, it is violative of principles of natural justice and it is an arbitrary exercise of power of the State and based on political considerations due to change of political party in power in the State, in the quinquennial elections for the Assembly.

Hence, G.O.Rt.No 244 and G.O.Rt.No.246 dated 17.09.2019; G.O.Rt.No.247 and G.O.Rt.No.248 dated 17.09.2019 are declared as illegal, arbitrary and violative of Article 14 of the Constitution of India and G.O.Rt.No.244 dated 17.09.2019 was issued in violation of Section 18-A of the Act.

In the result, writ petition is allowed, declaring G.O.Rt.No.244 and G.O.Rt.No.246 dated 17.09.2019, so also, G.O.Rt.No.247 and G.O.Rt.No.248 dated 17.09.2019; as illegal, arbitrary and violative of Article 14 of the Constitution of India and (G.O.Rt.No.244 dated 17.09.2019 was issued in violation of Section 18-A of the Act); consequently set-aside G.O.Rt.No.244 and G.O.Rt.No.246 dated 17.09.2019, so also, G.O.Rt.No.247 and G.O.Rt.No.248 dated 17.09.2019 so far as termination of these petitioners is concerned; while directing the respondents to continue the nominated Chairman to function as Chairman of the A.P Grandhalaya Parishad and Chairmans of Zilla Grandhalaya Samsthas for the Districts of Srikakulam, Vizianagaram, West Godavari, Krishna, Prakasam, Nellore, Chittoor, Ananthapuramu, Kadapa and Kurnool. No costs.

Consequently, miscellaneous applications pending if any, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:04.05.2021

Note: **L.R. Copy to be marked**
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