

Before Rajesh Bindal & Harinder Singh Sidhu, JJ.
PHOOL CHAND MULLANA AND OTHERS—Petitioners
versus
STATE OF HARYANA AND OTHERS — Respondents
CWP No.13829 of 2015

December 23, 2016

Constitution of India, 1950—Arts. 226, 227—No legal right to continue in office if appointed at pleasure of Government—Petitioners appointed as Chairman and Vice Chairman of Commission—Non-statutory Commission scrapped after formation of new Government—Petitioners removed from service—Removal challenged on ground of political malafide—Held, Petitioners appointed at the pleasure of Government without following any competitive selection process had no legal right to continue in office—Petition dismissed.

Held that Clause 2 of the notification is titled 'Term of Office and Conditions of Service of Chairperson and Members'. Clause 2(a) reads as under:

“The Chairperson and the Members shall hold office for a term not exceeding three years, except ex-officio member”

It is clear that as per this provision except for the ex-officio member, the Chairperson and the Members shall hold office for a term not exceeding three years. Clearly, three year term specified is the 'maximum term' upto which such an appointment could be made. Neither a minimum or a fixed term is provided.

(Para 15)

Further held that, even in the notifications dated 8.8.2014 and 21.8.2014 (Annexure P-3 and P-5), whereby, the petitioners had been appointed, it was clearly mentioned that terms of office and conditions of service of the Chairman and the Members will be notified separately. Before any such notification specifying the term of office was issued, the impugned notification came into being withdrawing the earlier notifications constituting the Commission and appointing the petitioners. Thus there is no basis for the argument of the petitioners that the impugned notification is illegal for it has curtailed the term of the petitioners.

(Para 16)

Further held that, even if term of office had been specified in the notification appointing the petitioners, that by itself, would not clothe the petitioners with any legally enforceable right as the Commission as constituted was non-statutory.

(Para 17)

Further held that, we also find merit in the argument of the Ld. Counsel for the respondent that as the petitioners had not come in through any selection process, they were appointed purely on the subjective satisfaction and pleasure of the then Government and as no procedure for appointment was specified, their appointment was purely at the pleasure of the Government and they had no legal right to continue in office

(Para 18)

G.K.S.Taank, Advocate
for the petitioners.

Lokesh Sinhal, Addl. A.G., Haryana.

HARINDER SINGH SIDHU, J.

(1) This petition has been filed praying for quashing of order dated 18.12.2014 (Annexure P-1) whereby the notification dated 10.10.2013 (Annexure P-2) constituting the Haryana State Commission for Scheduled Castes (for short “the Commission”) and the notifications dated 19.8.2014 and 21.8.2014, (Annexures P-4 and P- 5) vide which the petitioners were appointed as Chairman and Members thereof, have been withdrawn.

(2) Briefly, the facts are that vide notification dated 10.10.2013, the State of Haryana set up the Commission. The Commission was to consist of four Members, including the Chairperson. The Chairperson was to be an eminent person belonging to Scheduled Castes having wide experience in social life. Not more than three non-official members belonging to the Scheduled Castes were to be appointed by the Government from amongst the persons of ability, integrity and standing having special knowledge in matters relating to scheduled castes. It was stipulated that the Chairman and Members shall hold office for a term not exceeding three years, except the ex-officio members. They could also be removed on specified grounds. The relevant extract of the notification is as under:-

“Haryana Government
Welfare of Scheduled Castes and Backward Classes
Department
Notification
The 10th October, 2013

No. 769 SW(1)-2013:- the Governor of Haryana is pleased to accord assent to set up a Commission for scheduled castes known as “Haryana State Commission for Scheduled Castes “in the State of Haryana is under:-

1. Constitution of the Commission:

(a) The Commission shall consist of total for members including the Chairperson.

The Chairperson shall be an eminent person belonging to any of the scheduled castes having wide experience in social life;

Not more than three nonofficial members belonging to the scheduled castes, may be appointed by the government from amongst the persons of ability, integrity and standing having special knowledge in the matters relating to the scheduled castes:

Provided that the, Chairperson or one out of the three members of the Commission shall be a person having a law degree with at least seven years standing:

Provided further that one out of the four non official members of the Commission shall be a woman.

(b) The Director, Department of Welfare of Scheduled Castes and Backward Classes, Haryana shall be the ex-officio member.

(c) There shall be a Secretary to the Commission shall be appointed by the Government from amongst the officers of the Haryana Civil Service, not below the rank of Joint Secretary.

2. Term of Office and Conditions of Service of the Chairperson and Members:

(a) The Chairperson and the Members shall hold office for a term not exceeding three years, except the ex-officio

member.

(b) The Chairperson or a Member of the Commission may at any time by writing under his hand, addressed to the State Government, resign his office.

(c) The State government may remove a person from office of the chairperson or of a member if that person-

- i. becomes an insolvent; or
- ii. has been convicted and sentenced to imprisonment for a period of one year or more for any offence; or
- iii. becomes of unsound mind and stands so declared by a competent court; or
- iv. refuses to act or becomes incapable of acting; or
- v. without obtaining leave of absence from the Commission, absents from three consecutive meetings of the Commission; or
- vi. has in the opinion of government so abused the position as Chairperson or Member so as to render that person's continuance in office detrimental to the interest of the Scheduled Castes:

Provided that no person may be removed under this clause unless that person has been given an opportunity of being heard in the matter by the Administrative Secretary to the Government of Haryana, Department of Welfare of Scheduled Castes and Backward Classes..

(d) a vacancy caused under forgoing provisions or otherwise may be filled by a fresh appointment by the government and the persons who appointed shall hold office for the remainder of the term of office of the person in whose vacancy such person has been appointed, would have held office, if the vacancy had not occurred:

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

(e) The salaries and allowances payable to, and other terms and conditions of service of Chairperson and allowance

payable to the Members may be such, as may be specified by the Government.”

This notification was subsequently amended vide notification dated 19.8.2014, whereby, the composition of the Commission was enlarged to six members including one Chairperson and Vice-chairperson. This notification is reproduced below:-

“Haryana Government
Welfare of Scheduled Castes and Backward Classes
Department
Notification
The 19th, August, 2014

No. 632 SW(1)-2014 The Governor of Haryana is pleased to make the following amendments in the Notification No. 769 SW(1)-2013 dated 10.10.2013 vide which Haryana State Commission for Scheduled Castes was constituted.

In Clause 1(a) and Clause 4(f) of the Notification No. 769 SW(1) 2013 the following clauses shall be substituted namely:-

Clause 1(a) The Commission shall consist of total six members including one Chairperson and Vice Chairperson.

The Chairperson shall be an eminent person belonging to any of the scheduled castes having my experience in social life;

Not more than five nonofficial members including Vice Chairperson, belonging to the scheduled castes may be appointed by the government from amongst the persons of ability, integrity and standing having special knowledge in matters relating to scheduled castes:

Provided that the Chairperson or one out of the five members of the Commission shall be a person having a law degree with at least seven years standing:

Provided further that one out of the six nonofficial members of the Commission shall be a woman.

Clause 4(f) in the absence of the Chairperson, the Vice Chairperson shall preside over the meeting of the Commission. Further, in the absence of Chairperson and

Vice Chairperson, members may elect a member, from amongst them to decide over the meeting and proceedings of such meeting shall be deemed to be proper and legal.

Dated, Chandigarh Ram Niwas 17.08.2014

Haryana Welfare of Scheduled Castes and Backward Classes Department.”

Vide notification dated 8.8.2014, the petitioner No.1 was appointed as Chairman and petitioners No.2, 3 and 4 were appointed as Members of the Commission. Vide notification dated 21.8.2014, petitioners No.5 and 6 were appointed as Members of the Commission, while petitioner No.2 was re-designated as Vice-Chairman of the Commission. These notifications are reproduced below:-

“Haryana Government
Welfare of Scheduled Castes and Backward Classes
Department
Notification
The 8, August, 2014

No. 595-SW(1)-2014 The Governor of Haryana hereby appoints the following as Chairman and Members of Haryana State Commission for Scheduled Castes constituted vide Haryana Government, Welfare of Scheduled Castes and Backward Classes Department notification no. 769 SW(1)-2013, dated the 10th October, 2013

1. Sh.Phool Chand Mullana Chairman
#79, Sector-7, Chandigarh
#450, opposite Yogi Ashram, Ambala
2. Col. (Retd.) Arya Vir Member
#614, Chahat village, sector 29 Noida, UP.
3. Sh. Roshan Lal, HCS(Retd.) Member
#1633, sector 13, Hisar.
4. Ms Sonia Bharti, Advocate Member
D/o Sh. Charan Dass
#51/31, Siwan Gate, Jail Road, Kaithal

2. HCS officer of the rank of Joint Secretary to Govt. of Haryana will be the Secretary of the Commission.

3. The terms of office and conditions of service of the Chairman and Members will be notified separately.

Dated, Chandigarh

Tarun Bajaj

6-8-2014

Principal Secretary to Government
Haryana Welfare of Scheduled Castes and Backward
Classes Department.”

“Haryana Government
Welfare of Scheduled Castes and Backward Classes
Department
Notification

The 21st, August, 2014

No. 632 A-SW(1)-2014 The Governor of Haryana is further pleased to appoint the following as members of Haryana State commission for scheduled castes constituted vide Haryana Government, Welfare of Scheduled Castes and Backward Classes Department Notification No. 769 SW(1)-2013, dated the 10th October, 2013.

1. Sh. Manoj Bagri s/o Sh. Jai Singh
Member
Bagri, #1115, Sector 14, Sonapat.

2. Sh. Phool Singh Sansi s/o Sh. Sheo Chand, H. No. 35,
ward no. 1, Indira Colony, Rohtak.

Col. (Retd.) Arya Vir, #614, Chahat Village, Sector 29, Noida, UP appointed as member of the Haryana State commission for scheduled castes vide Notification No. 595 SW(1)-2014 dated 08.08.2014 is re-designate as Vice Chairman of the Commission.

The term of office and conditions of service of the Chairman, Vice-Chairman and Members will be notified separately.

Dated, Chandigarh the
Ram Niwas

20.08.2014 Additional Chief Secretary to Government
Haryana Welfare of Scheduled Castes and Backward Classes
Department.”

(3) Elections to the Haryana State Assembly were held in

October, 2014, wherein the Bhartiya Janata Party secured majority. The new BJP Government assumed office on 26.10.2014 replacing the earlier Congress government. It is the case of the petitioners that prior to the elections, the State BJP leaders had announced that if the party came into power in the ensuing elections, all decisions taken by the earlier Government would be reviewed. Immediately, on the formation of the BJP Government, the Cabinet on 27.10.2014 took a formal decision to review all announcements and decisions pertaining to appointment/ recruitment made after 16.5.2014 by the previous Government. The said decision was communicated to all administrative departments with a request to implement the decision at the earliest.

(4) These said decisions, which have been annexed as Annexure P- 6 and P-7 are reproduced below:-

“COUNCIL OF MINISTERS

Subject:- Review of announcements made by the previous Government after 16th May, 2014

Will the All Additional Chief Secretary/Principal Secretary/Commissioner and Secretaries to Government Haryana kindly refer to the subject noted above?

1. The Council of Ministers in its meeting held on 27.10.2014 has taken the following decision in this matter:-

(This item was not listed in the agenda but was considered with the permission of the Chief Minister).

“The Council of Ministers on its own accord decided that the Government will review all announcements and decisions pertaining to appointments/recruitments made after 16.05.2014 by the previous Government”

2. The Administrative Department is requested to kindly implement the decision of the Council of Ministers at the earliest.

Sd/-

Superintendent, Cabinet for Secretary, Council of Ministers,
Haryana”

“COUNCIL OF MINISTERS

Subject: Review of announcements/recruitments/
appointments made by the previous Government after 16

May,2014

Will the All Additional Chief Secretary/Principal Secretary/Commissioner & Secretaries to Government Haryana kindly refer to the subject noted above?

2. The Council of Ministers in its meeting held on 05.11.2014 has taken the following decision in this matter:-

(This item was not listed in the agenda but was considered with the permission of the Chief Minister).

The Council of Ministers on its own accord discussed the matter pertaining to announcements /recruitments /appointments made by the previous Government after 16 May 2014. After due deliberation the following decisions were taken:-

(i) Administrative Departments will conduct a review of all matters for which approval was granted by the Council of Ministers and will bring the requisite memorandum before the Council of Ministers. The examination by the Administrative Department will be taken up within the next 15 days and till then status quo in implementation will be maintained.

(ii) Administrative Departments will conduct a review of other decisions on announcements/ recruitments /appointments through their Minister Incharge.

3. The Administrative Department is requested to kindly implement the decision of the Council of Ministers at the earliest.

Sd/-

Superintendent Cabinet
For Secretary, Council of Minister, Haryana”

(5) It is the case of the petitioners that in furtherance of these decisions, the impugned notification dated 18.12.2014 was issued withdrawing the earlier notifications constituting the Commission and appointing the petitioners as Chairman and Members thereof. This notification is reproduced below:

““HARYANA GOVERNMENT
Welfare of Scheduled Castes and Backward Classes
Department

NOTIFICATION

No.962-SW(1)-2014

Dated: 18.12.2014

The Governor of Haryana is pleased to withdraw the notification issued vide No.769/SW(1)-2013 dated 10.10.2013 by Welfare of Scheduled Castes and Backward Classes Department vide which the Commission for Scheduled Castes known as "Haryana State Commission for Scheduled Castes" was constituted, and further pleased to withdraw the notification issued vide No.595-SW(1)-2014 dated 21.08.2014 vide which appointment of Chairman and other members of the said Commission were made, with immediate effect.

His Excellency is further pleased to order the setting up of a High Level Committee headed by Social Justice and Empowerment Minister to suggest measures relating to welfare of scheduled castes and propose appropriate mechanism to perform various functions which were supposed to be performed by the State Commission for Scheduled Castes.

His Excellency is further pleased to order that Sh.Krishan Kumar Bedi. Minister of State for Social Justice and Empowerment, Shri Bhagwan Dass Kabirpanthi, MLA and Shri Krishan Lal Panwar, MLA will be the other members of this High Level Committee and the Additional Chief Secretary to Govt. Haryana, Welfare of Scheduled Castes and Backward Classes will be the Member Secretary of this Committee.

Dated Chandigarh the

Kumar Sunil Gulati

17.12.201

Additional Chief Secretary to Govt.Haryana
Welfare of Scheduled Castes and Backward
Classes Department, Chandigarh."

It is this notification which is impugned in the petition.

(6) In the written statement filed on behalf of the State of Haryana, it has been stated that the impugned notification dated 18.12.2014 has been issued in public interest for welfare of the Scheduled Castes after having enquired into the matter in detail. A High Level Committee headed by Social Justice and Empowerment

Minister was constituted to suggest measures relating to welfare of Scheduled Castes and propose appropriate mechanism to perform various functions which were required to be performed by the Commission.

(7) It is stated that the Commission was set up vide notification dated 10.10.2013 on the advice of the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes, which during its visit to Jind on 17.10.2012, recommended that the State Government may constitute State Commission for Scheduled Castes to take decisions on the issues pertaining to welfare of the Scheduled Castes/Scheduled Tribes in Haryana. It was after a gap of about 10 months thereafter that the Chairman, Vice Chairman and 4 members of the Commission were appointed. However, they did not show any interest in the working of the Commission and did not hold even a single official meeting. The terms and conditions of their appointment were also not issued by the Finance Department, Haryana. As such, the Commission failed to deliver as per the provisions under the notification dated 10.10.2013. Accordingly, the State Government vide its notification dated 18.12.2014 set up a High Level Committee headed by Social Justice and Empowerment Minister to suggest measures relating to welfare of scheduled castes and propose appropriate mechanism to perform various functions which were supposed to be performed by the State Commission for Scheduled castes in public interest. Shri Krishan Kumar Bedi, Hon'ble State Minister for Social Justice & Empowerment Department, Shri Bhagwan Dass Kabirpanthi, MLA (Nilokheri) and Shri Krishan Lal Pawar, MLA (Israna) were appointed as Members of the Committee. Additional Chief Secretary to Government of Haryana, Welfare of Scheduled Castes and Backward Classes Department, Haryana was appointed as Member Secretary of the said Committee. Subsequently, the High Level Committee under the Chairmanship of Minister for Welfare of Scheduled Castes and Backward Classes Department was reconstituted vide Notification dated 2.9.2015. Shri Bhagwan Dass Kabirpanthi, MLA, Shri Banwari Lal, MLA and Shri Kulwant Ram Bazigar, MLA were appointed as Members and the Additional Chief Secretary to Government, Haryana, Welfare of Scheduled Castes and Backward Classes Department, as Member Secretary of the Committee. Therefore, the action of the State Governments in withdrawing the notifications and setting up the High Level Committee is legal and justified.

(8) Ld. Counsel for the petitioners contended that as per Clause 2(a) of the notification dated 10.10.2013, the Chairperson and Members shall hold office for a period not exceeding three years. He argued that as per this Clause, the petitioners were given a fixed term of office, which could not be curtailed in the absence of reasons for removal as specified in Clause 2(c). No such reason existed in the case of the petitioners. Secondly as per the proviso to Rule 2(c), before removal an opportunity of hearing was to be given which was not given to the petitioners. Hence, their removal is contrary to the provisions of the notification. He next argued that the decision of the Government to disband the Commission and remove the petitioners was a partisan decision actuated by petty political considerations. He stated that in light with its declared intention to review all decisions of the previous Government, immediately on the BJP Government being sworn in, the Council of Ministers decided to review all announcements and decisions pertaining to appointments/ recruitment made after 16.5.2014 by the previous Government. He argued that as many as eight statutory or non-statutory Commissions have been scrapped and their Chairmen and members were unceremoniously removed after the formation of the present Government without any legal or justifiable basis. Referring to the purported justification of the Government that the impugned notification was issued bona fide and for the reason that neither Chairman nor members of the Commission showed any interest in discharging their responsibilities and did not hold any meeting he stated that the Commission could not function as no office space had been provided for the functioning of the Commission. He further argued that the very fact that a High Level Committee had been constituted to suggest measures relating to Scheduled Castes and to perform other functions, which were to be discharged by the Commission itself justifies the continuation of the Commission. He argued that so called High Level Committee had not held any meeting and performed the functions purportedly assigned to it.

(9) Ld. Counsel for the petitioners placed reliance on *Union of India and another* versus *Shardindu*¹, *State of M.P.* versus *Ajay Singh and others*², *D.K.Yadav* versus *M/s J.M.A. Industries Ltd.*³, *Kumari Shrilekha Vidyarthi etc.* versus *State of U.P. and others*⁴ and a

¹ 2007(6) SCC 276

² 1993(1) SCC 302

³ 1993(3) SCC 259

⁴ 1991(1) SCC 212

decision of this Court in **CWP No.16335 of 2015** titled '*Ms.Kamlesh Panchal* versus *State of Haryana*' decided on **17.05.2016**.

(10) Disputing the contentions of Ld. Counsel for the petitioners, Sh.Lokesh Sinhal argued that the Commission was a non-statutory body, hence, the petitioners cannot claim any legal right to continue. Further, referring to Clause 2(a) of the notification dated 10.10.2013, he argued that the term specified therein was the maximum term. No minimum term of office was specified by the notification. Even in the notifications dated 8.8.2014 and 21.8.2014 (Annexures P-3 and P-5), whereby, the petitioners had been appointed, it was clearly mentioned that terms of office and conditions of service of the Chairman and the Members will be notified separately. No such notification specifying the term of office was ever issued. He categorically denied any mala fide intention in withdrawing the notification constituting the Commission. He further argued that general allegations of mala fide cannot be gone into without any specific person being impleaded to answer the same. He stated that as per Clause 4(c) of the notification dated 10.10.2013, the Commission was required to hold at least one meeting every two months. He asserted that during the entire period of its existence, no meeting was held by the Commission. Referring to minutes of a meeting dated 2.9.2014 (annexed by the petitioner with his replication as Annexure P-17), he stated that this was not a meeting of the Commission, but a meeting under the Chairmanship of Hon'ble Chief Minister regarding operationalizing the newly constituted Commissions. He further argued that the petitioners had not come in through any selection process, they were appointed purely on the subjective satisfaction and pleasure of the then Government. No procedure for appointment was specified, nor any eligibility criteria provided. Thus, their appointment was purely at the pleasure of the Government and they had no legal right to continue in office. He further argued that it was in the exclusive domain of the Government, whether or not to constitute a Commission or adopt any other mechanism for promoting the welfare of the Scheduled Castes. The Government in its wisdom found that functions assigned to the Commission would be better performed by constituting a High Level Committee. No fault can be found with the said decision, which is purely a policy decision of the Government.

(11) He further argued that this petition has been filed after a delay of ten months.

(12) Heard Ld. Counsel for the parties and perused the record.

(13) The primary contention of the Ld. Counsel for the petitioners is that as per Clause 2(a) of the notification dated 10.10.2013 whereby the Commission was constituted, the Chairman and Members had been provided a minimum/fixed term of three years. This term could only be curtailed by resorting to the process of removal as contemplated in Clause 2(c) of the notification which contained specific grounds for removal and required giving an opportunity of hearing. As such a process was not resorted to and in fact no such ground for removal existed the impugned action was illegal.

(14) This contention of the Ld. Counsel for the petitioners is ill founded and is belied by a plain reading of the notification.

(15) Clause 2 of the notification is titled 'Term of Office and Conditions of Service of Chairperson and Members'. Clause 2(a) reads as under:

“The Chairperson and the Members shall hold office for a term not exceeding three years, except ex-officio member”

It is clear that as per this provision except for the ex-officio member, the Chairperson and the Members shall hold office for a term not exceeding three years. Clearly, three year term specified is the 'maximum term' upto which such an appointment could be made. Neither a minimum or a fixed term is provided.

(16) Further, even in the notifications dated 8.8.2014 and 21.8.2014 (Annexures P-3 and P-5), whereby, the petitioners had been appointed, it was clearly mentioned that terms of office and conditions of service of the Chairman and the Members will be notified separately. Before any such notification specifying the term of office was issued, the impugned notification came into being withdrawing the earlier notifications constituting the Commission and appointing the petitioners. Thus there is no basis for the argument of the petitioners that the impugned notification is illegal for it has curtailed the term of the petitioners.

(17) Further, even if term of office had been specified in the notification appointing the petitioners, that by itself, would not clothe the petitioners with any legally enforceable right as the Commission as constituted was non-statutory.

(18) We also find merit in the argument of the Ld. Counsel for the respondent that as the petitioners had not come in through any selection process, they were appointed purely on the subjective

satisfaction and pleasure of the then Government and as no procedure for appointment was specified, their appointment was purely at the pleasure of the Government and they had no legal right to continue in office.

(19) This Court recently considered a similar issue in *CWP No.18570 of 2016* titled *Som Dutt and others* versus *State of Haryana and others* decided on 7.9.2016.

In that petition, the dissolution of the 'Haryana Backward Classes Commission' during the subsistence of its tenure was challenged by some of the Members of the Commission. In place of the dissolved Commission, which had been constituted in exercise of executive powers, a new Commission was constituted in terms of Section 3 of the Haryana Backward Classes Commission Act, 2016 which came to be enacted during the subsistence of the earlier Commission. The primary challenge of the petitioners was that their term which stood extended upto 07-04-2017 could not be curtailed without there being any provision for curtailing the tenure of the Members.

Negating this contention it was held as under:

“13. The Commission to which the petitioners were appointed was constituted by notification issued in exercise of executive power of the State. The Commission has been dissolved in the same manner resulting in the petitioners ceasing to be members. Neither the constitution of the Commission nor the appointment of the petitioners had any statutory basis. In the absence thereof, the petitioners had no legal right to continue as members. It is well settled that the power of appointment includes the power of removal. The petitioners had been nominated at the sole discretion of the Government without following any selection procedure or inviting applications from the general public. Such an appointment is not in the nature of an employment or appointment under Part XIV of the Constitution. It has to be treated as one under the pleasure of the Government and conferring no legal or fundamental right on the petitioners. Thus, we find no illegality in the notification Annexure P-6 dissolving the Commission and the consequential cessation of membership of the petitioners.

14. Similar questions have been considered by different

High Courts and it has been held that appointments to high public offices like Chairperson/ Members of Boards/ Commissions which are not made by following any competitive selection process, but in the pure discretion and subjective satisfaction of the government and for which no 'minimum tenure' as distinct from a 'tenure' is prescribed, are at the pleasure of the government and can be terminated at any time in exercise of the doctrine of pleasure without any cause shown. In such situation the exercise of the doctrine of pleasure is neither arbitrary nor unconstitutional not antithetical to Article 14."

That ratio of the aforesaid case is fully attracted in the present case as well.

(20) The argument of mala fide raised by the Ld. Counsel for the petitioners must also fail. There is no specific allegation of mala fide against any individual but only a general allegation that with the change of government a number of Boards and Corporations have been reconstituted, consequent upon a general decision to review previous appointments. Similar argument was rejected by Hon'ble the Supreme Court in *D.C. Saxena* versus *State of Haryana*⁵.

(21) The appellant therein was appointed as Chairman of the Haryana Board of School Education on December 10, 1985. At that time he was holding the post of Professor-Director of the Punjabi University Regional Centre, Bathinda. On his appointment as the Chairman of the said Board he resigned from his post as Professor-Director and took over as the Chairman of the Board on December 11, 1985. His original appointment was for a period of 2 years. While he was holding the office as Chairman of the Board, he received a communication dated March 24, 1986, from the Education Department of the Haryana Government informing him that the Government may curtail his tenure of office at any time. On June 7, 1986, he was served with an order that his term of office had been curtailed with immediate effect and that he would cease to function as Chairman from June 8, 1986. He challenged this order by contending that his original appointment was for two years at a time when he was holding a prestigious post, that he relinquished that post and took charge of the new post, that the curtailment of the original period fixed altered his position to his detriment and that all this was done mala fide.

⁵ (1987) 3 SCC 251

(22) The Court rejected the ground of mala fide taking into consideration the fact that the curtailment of his tenure was the result of a policy decision taken by the new government to bring in a new class of Chairmen in different Boards and Corporations in the state. The relevant observations of the Court are as under:

“5.....On the facts and circumstances, it is clear that the termination of the appellant’s tenure was the result of the policy decision taken by the government to bring in a new class of Chairmen in different Boards in the State. From the material on record we are not satisfied that the termination of the appellant’s tenure was prompted by mala fides or was punitive in nature. The appellant’s services were dispensed with because of a general decision taken by the Government dispensing with the services of non-officials and non-MLAs as Chairmen of the Boards and Corporations excluding the Kurukshetra Development Board and the Tourism Corporation, Haryana. Similarly with the termination of the appellant’s services the services of Chairmen of several other Boards and Organisations were terminated.”

(23) The arguments of mala fide further are of no avail to the petitioners as they have no legal right to continue.

(24) The judgments relied on by the Ld. Counsel for the petitioners are distinguishable. *Shardindu's* and *Kamlesh Panchal's* cases (supra) were cases of appointments under a Statute, which have no relevance to the present case, where the appointment was non-statutory. In *Ajay Singh and others'* case (supra), the question was regarding the power to reconstitute a Commission of Inquiry constituted under the Commissions of Inquiry Act, 1952 by replacement of the existing Member by invoking the power under Section 21 of the General Clauses Act, 1897 to amend or vary any notification. The Court answered the question in negative. *D.K.Yadav's* case (supra) was a case of termination of a workman which the Hon'ble Court held could not be resorted to without a proper enquiry. *Kumari Shrilekha Vidyarthi's* case (supra) was a case of en masse termination of District Government Counsels appointed in terms of the Legal Remembrancer's Manual and Section 24 of the Code of Criminal Procedure, 1973. The Court held that the impugned circular terminating the appointment of Government Counsels in all districts of State of U.P. by an omnibus order even though the appointments were individual, and without any common reason applicable to all justifying

their termination in one stroke and having been done despite clear provisions in the LR Manual laying down detailed procedure for appointment, termination and renewal of tenure was arbitrary. This judgment is also not relevant for the present purpose.

(25) Accordingly, there is no merit in the present petition and the same is dismissed.

Dr. Sumati Jund