VERDICTUM.IN

2026:KER:85765

'CR'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2026 / 20TH KARTHIKA, 1948

WP(C) NO. 27541 OF 2026

PETITIONER/S:

1 PROF. DR. P.P. AJAYAKUMAR
AGED 63 YEARS
S/O.C.H.NARAYANAN, RESIDING AT ‘SAMANUAYA', STRA-33, THURUVIKKAL.P.O., ULLOOR, THIRUVANANTHAPURAM, PIN - 695011

2 ADV. G. SUGUNAN
AGED 72 YEARS
S/O. C.K. GANGADHARAN, RESIDING AT GANGA', ATTINGAL.P.O., THIRUVANANTHAPURAM, PIN - 695101

3 P. HARIDAS
AGED 58 YEARS
S/O. LATE K. PADMANABHAN NAIR, RESIDING AT HARINANDANAM', THRIKALATHUR.P.O., ERNAKULAM DISTRICT, PIN - 683541

BY ADVS.
SRI.K.R.GANESH
SHRI.ELVIN PETER P.J. (SR.)
SHRI.ADARSH BABU C.S.
SMT.RESHMA PRAKASH KURIAN

RESPONDENT/S:

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1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY, HIGHER EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

2 SREE NARAYANA GURU OPEN UNIVERSITY
REPRESENTED BY ITS REGISTRAR, UNIVERSITY BUILDING, KUREEPUZHA, KOLLAM, PIN - 691601

3 THE VICE CHANCELLOR
SREE NARAYANA GURU OPEN UNIVERSITY, UNIVERSITY BUILDING, KUREEPUZHA, KOLLAM,, PIN - 691601

4 THE REGISTRAR
SREE NARAYANAN GURU OPEN UNIVERSITY, UNIVERSITY BUILDING, KUREEPUZHA, KOLLAM, PIN - 691601

5 KALLADA GIREESH
MANGAT HOUSE, KARALI.P.O., SASTHAMKOTTA, KOLLAM, PIN - 690521

6 DR.SULFI.P.
ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE, MES MAMBAD COLLEGE, MALAPPURAM, PIN - 676542

7 DR. JOHN JOSEPH
NELLICKATHERUVIL HOUSE, NIRMALAGIRI.P.O., KUTHUPARAMBA, KANNUR., PIN - 670701

8 SREENIVASAN.M.K.,
SREERAGAM, NANGIARAKULAGNARA.P.O., HARIPAD, ALAPPUZHA, PIN - 690513

9 PROF. (DR.) RAJESH.C.
PROFESSOR AND HEAD, DEPARTMENT OF PHYSICAL EDUCATION, GOVERNMENT VICTORIA COLLEGE, PALAKKAD, PIN - 678001

0 DR.S. JAYAPRAKASH
SARAS, SREENIVASAPURAM.P.O., VARKALA, THIRUVANANTHAPURAM, PIN - 695145

11 AJITHAKUMARY

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JYOSTANA DALE, PUNNATHALA, NORTH 49, THIRUMULLAVARAM, KOLLAM., PIN - 691012

12 DR.SHEENU.G.S.
ASSISTANT PROFESSOR IN NATURAL SCIENCE, KERALA UNIVERSITY, TEACHER EDUCATION COLLEGE, KOLLAM, PIN - 691009

13 JOEL JOHN JOSEPH
M.A. PUBLIC ADMINISTRATION, S.N. OPEN UNIVERSITY, KOLLAM, PIN - 691601

BY ADVS.
GOVERNMENT PLEADER
SMT.GIRIJA K GOPAL
SMT.NISHA GEORGE
SHRI.P.A.MOHAMMED SHAH, ADDL.ADVOCATE GENERAL
SRI.GEORGE POONTHOTTAM (SR.)
SMT.KAVYA VARMA M. M.
SHRI.ANOOP V.NAIR, STATE ATTORNEY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR HEARING ON 27.10.2026 AND THE COURT ON 11.11.2026 DELIVERED THE FOLLOWING:

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2026:KER:85765

CR'

P.V.KUNHIKRISHNAN, J.

W.P.(C).No.27541 of 2026

Dated this the 11 th day of November, 2026

JUDGMENT

This writ petition is filed challenging Exts. P4 and P5 orders, whereby the petitioners' appointment as nominated members of the Syndicate of Sree Narayana Guru Open University (for short, the University) was cancelled, and they were substituted by others. I will briefly narrate the facts: The University was established by the 1st respondent under Act 1 of 2021, the Sree Narayana Guru Open University Act (for short, Act 2021). The University was established to introduce a new pattern of learning, deviating from the conventional educational system, by utilising the latest innovations in scientific and technological developments and by conducting education in Online Distance Mode (ODM). The 3rd respondent is the Vice-Chancellor of the University. The University authorities were created under

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Chapter 4, Section 20 of the Act 2021. Under Section 20 of the Act 2021, the Senate, Syndicate, Academic Council, Finance Council, Cyber Council, and Board of Schools were created. Section 25 of the Act 2021 lays down the Constitution of the University Syndicate. As per Section 25(1), the Syndicate shall consist of the members narrated in clauses (i) to (iv). Thereafter, it deals with the elected members. One member elected by the members of the Legislative Assembly, from among themselves, will be the elected member. Subsequently, the section deals with the nominated members. We are concerned about sub-section (ii) in nominated members, which says that eight eminent persons nominated by the Government from the fields of higher education, labour and industry, of whom one shall be from the Scheduled Caste or Scheduled Tribes and one shall be a woman as Syndicate members. Section 26 of the Act 2021 says that the term of office of the members of the Syndicate other than ex-officio members dealt with in Section 25 shall be co-terminus with the term of the Syndicate.

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According to the petitioners, Section 26(1) makes it clear that the Syndicate shall be reconstituted every four years. Sub-section (2) lays down that the term of office of the members of the Syndicate shall be co-terminus with the term of the Syndicate. Therefore, it is submitted that the term of the members of the Syndicate has been fixed by the plenary Act itself to be four years. The petitioners herein were nominated as the members of the Syndicate by the Government as per the Government Order dated 14.03.2025, as evident from Ext.P1. The petitioners herein are serial Nos. 2, 4 and 6, respectively, in Ext.P1. Among the petitioners, the 1st petitioner was the former Pro Vice-Chancellor of Kerala University. Following the Ext.P1 order, the 4th respondent issued a statutory notification nominating the petitioners as members of the Syndicate, and Ext.P2 is the order. Therefore, it is submitted that, in accordance with Section 26 of the Act 2021, the term of office of the petitioners as members of the Syndicate, being 4 years, will expire only on 13.03.2029.

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2. Therefore, it is submitted that, on a combined reading of Section 25 and Section 26 of the Act 2021, it can be seen that the above provision has not conferred any power upon the members who are nominated by the Government to the Syndicate to remove them on any ground, including loss of confidence or invoking the Doctrine of Pleasure. It is submitted that, in constituting the Senate of Kerala University, the Mahatma Gandhi University Act, etc., expressly incorporates a provision empowering the Government to recall its nominations to any authority of the University, invoking the Doctrine of Pleasure. Thus, the petitioners, having been nominated by the Government as per Ext.P1 order, are entitled to complete the full term of four years in office as members of the Syndicate of the University, and the Government has no power to withdraw the petitioners' nominations, is the submission. It is also submitted that, even assuming, for argument's sake, that in case the nominated members committed any misconduct, then the Government can be assumed to possess the power to recall

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the petitioners; however, without any such misconduct committed by the petitioners or other members of the Syndicate of the University nominated by the Government, the Government cannot recall the nominated members. It is further submitted that, even in the case of other Universities, the Act itself includes an express provision to recall members nominated by the Government to the different authorities of the Universities, invoking the Doctrine of Pleasure. Even in such cases, the petitioners submit, based on this Court's decision in **Deepak S.P. v. The Chancellor, University of Kerala and others** [2014 (1) KLT 520], that the Doctrine of Pleasure cannot be invoked arbitrarily or mala fide. The said judgment is produced as Ext.P3. It is submitted that the above decision considered the Chancellor's action in recalling the members nominated to the Senate of the Kerala University. Section 18 of the Kerala University Act expressly incorporates a proviso conferring power upon the Chancellor and the Government to recall the nominated members invoking the Pleasure Doctrine. It

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is submitted that, in interpreting the above proviso, this Court held that even if the power is conferred on the Chancellor to recall a member nominated to the Senate of the Kerala University invoking the Doctrine of Pleasure, it cannot be exercised capriciously or arbitrarily.

3. With the above legal background, the petitioners submit that the Government, without any basis, issued the impugned order, nominating new members to the Syndicate of the University by withdrawing the nominations of the petitioners already made. Ext.P4 is the order withdrawing the nominations of the petitioners and other members of the Syndicate of the University and nominating respondents 5 to 13 as the new members of the Syndicate. Thereafter, the 3rd respondent issued a notification nominating respondents 5 to 13 as the members of the Syndicate of the University. It is submitted that Ext.P4 shows that no reason whatsoever has been stated, nor does one exist, to withdraw the petitioners' nominations as members of the Syndicate of the University. It is submitted that, in the case

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of the 1st petitioner, the 6th respondent has been nominated; in place of the 2nd petitioner, the 7th respondent has been nominated; and in place of the 3rd petitioner, the 9th respondent has been nominated as members of the Syndicate of the University. It is further submitted that Ext.P4 shows that no reason whatsoever has been stated for withdrawing the petitioners' nominations and nominating respondents 5 to 13 in place of the petitioners and other members of the Syndicate of the University. It is submitted that no reason whatsoever exists to date to withdraw the nominations of the petitioners because they have neither committed any misconduct nor faced any allegations of illegal or unfair actions as members of the Syndicate of the University. Hence, it is submitted that the Ext.P4 order withdrawing the nominations of the petitioners and other members of the Syndicate is illegal, arbitrary, unfair, unreasonable, and capricious, and violates Article 14 of the Constitution of India. Hence this writ petition.

4. Heard Sri. Elvin Peter, the learned Senior Counsel,

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instructed by Sri. K.R.Ganesh for the petitioners and Sri.Anoop V. Nair, the learned State Attorney, appearing for the State. I also heard Sri. George Poonthottam, the learned Senior Counsel, instructed by Smt. Nisha George, for respondents 5 to 13. Smt. Girija Venogopal, the learned Standing Counsel for the University, appeared for respondents 2 to 4.

5. The Senior Counsel appearing for the petitioners argued the matter in detail and submitted that any arbitrary action of the State will be violative of Article 14 of the Constitution of India, and in Ext.P3 judgment, considering the powers of the Chancellor to withdraw the nomination of the members of the Senate of the Kerala University, it has been succinctly laid down that any action withdrawing the nomination of the Senate of the Kerala University, even by invoking the Doctrine of Pleasure, will be set aside by this Court, if the power is exercised in an arbitrary and capricious manner. The Senior Counsel also submitted that absolutely no reason whatsoever is mentioned in Exts.P4 and P5 for withdrawing the nominations of

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the petitioners and to appoint the party respondents in their place. It is submitted that the power exercised by the Government in Ext.P4 is not a sovereign power, but it is a statutory power. Therefore, it is submitted that a statutory authority must act only within the four corners of the Statute. The Senior Counsel submitted that under Section 25 of the Act, 2021, the Government has no power to withdraw the nomination. Hence, it is clear that the Ext.P4 order issued by the Government withdrawing the nomination of the petitioners and other members of the Syndicate of the University, and the Ext.P5 consequential notification issued without any authority of law, are therefore void and non est. The learned Senior Counsel also submitted that Section 25 of the Act, 2021 contains no express provision conferring power on the Government to withdraw nominations already made to the Syndicate of the University, and the provision also does not empower the Government to invoke the Doctrine of Pleasure. However, it is submitted that even conceding, without admitting, that the

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Government, which has nominated a member to a statutory body, has to be conceded the power to withdraw the nomination, such power can be exercised only on the basis of some reason, and no reason is mentioned in the impugned order, is the submission. The Senior Counsel also relied on the decision of the Apex Court reported in **All Kerala Pvt. College Teachers' Assn. v. Nair Service Society** [1994 (5) SCC 479] and submitted that the University should be kept outside the control of the Government and should not be politicised. Senior Counsel also relied on several other judgments, which I will consider later.

6. The State Attorney justified the impugned order and submitted that once there is a power to appoint, it includes the power to suspend or dismiss. The State Attorney relied on the judgment of the Apex Court in the **State of Maharashtra v. Shaikh Mahemud & Another** [2022 (3) KHC 310]. The State Attorney also relied on Section 16 of the General Clauses Act, 1897.

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7. The Standing Counsel appearing for the University, Advocate Girija K. Gopal, argued the matter in detail, supporting the contentions of the State Attorney. She raised other contentions also. This Court requested the Standing Counsel to submit a note codifying her main contentions. Accordingly, the Standing Counsel submitted a written note raising the following questions for consideration:

> **"Questions that arise for consideration**
>
> 1. Appointment and nomination stand on a different footing - There being no dispute as to the fact that it is on "nomination" by the Government and not by any process of "selection" or "appointment" that the petitioner is included as a nominated member in the Syndicate of the University, does the provision which states that the term of nominated members shall be co- terminus with that of the Syndicate give any vested right to a nominated member to continue till the expiry of the term of the Syndicate, irrespective of satisfaction of the nominating authority?
>
> 2. Should the provision providing for tenure of nominated members be understood as a provision ensuring guarantee of a minimum tenure co-terminus with that of the Syndicate, before which it cannot be curtailed under any circumstance, or just as a maximum tenure.

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3. Since the petitioner is "nominated" during the period when a different political party was in power, are not political considerations a valid ground for substitution of nominations?

4. Though the pleasure doctrine is not explicitly incorporated in the language of the provision, fact being that it is by nomination that the petitioner is included as a member in the Syndicate of the University, does it take away the right of the nominating authority to review nominations and curtail the period of nomination, since the pleasure doctrine is implicit in the very act of nomination itself?

5. Does not the nominating authority have the power to withdraw previous nominations and substitute its persons of choice? Is not Section 21 of the General Clauses Act applicable in such a case, since the authority to nominate includes the authority to rescind, vary, modify or cancel as well?

6. Can nominated members and elected members be treated at par in the matter of their term of office?

7. Is not the scope of judicial review in such matters extremely limited, particularly when there are no allegations of malafides attributed?

8. The Senior Counsel appearing for the party respondents, Sree George Poonthottam, also raised different contentions. The Senior Counsel submitted that, under Section

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26 of the Act 2021, it is stated only that the Syndicate shall be reconstituted every 4 years. Therefore, the Senior Counsel submitted that Section 26 provides only an outer limit for reconstituting the Syndicate. The Senior Counsel compared Section 26 of Act 2021 with the term of office of members mentioned in the Kerala University Act, 1974, Cochin University of Science and Technology Act, 1986, Mahatma Gandhi University Act, 1985, Calicut University Act, 1975, Kannur University Act, 1996, Kerala Agricultural University Act, 1971, National University of Advanced Legal Studies Act, 2005, Sree Sankaracharya University of Sanskrit Act, 1994, Kerala Veterinary and Animal Sciences University Act, 2010, Kerala University of Fisheries and Ocean Studies Act, 2010, Kerala University of Health Sciences Act, 2010, A.P.J. Abdul Kalam Technological University Act, 2015. The Senior Counsel submitted that, in all other Acts, a term is fixed while nominating or appointing the members of the Syndicate. But, under Section 26(1) of the Act 2021, it mentions only an outer

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limit for reconstitution of the Syndicate. The Senior Counsel submitted that Section 26(2) of the Act 2021 only says that the term of office of the members of the Syndicate other than ex-officio members shall be co-terminus with the term of the Syndicate. Therefore, it is submitted that the petitioners have no right to continue for a period of 4 years as per the Statute itself.

9. This Court considered the contentions of the petitioners and the respondents. The point to be decided in this case is whether a nominated member of the Syndicate can continue for 4 years under the Act, 2021, and whether the Government can substitute nominated members before the expiry of the term without assigning any reason. It is an admitted fact that no specific reason is mentioned in Exts. P4 and P5 for removing the petitioners and other members. In Ext. P4, it is only stated that, in exercise of the powers vested with it under Chapter IV, Section 25 of the Act 2021, the Government has decided to review the nominations of the Syndicate of the University, and the petitioners and others were replaced. In

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the concluding portion of Ext.P4, it is stated that the Government hereby withdraws the nominations of members mentioned in Column (3) and replaces them with nominations made in Column (4) with immediate effect. Accordingly, this withdraws the petitioners' nominations.

10. Section 25 of the Act 2021 deals with the constitution of the Syndicate of the University. It would be better to extract Section 25 of the Act 2021:

> "25. The Syndicate.— The Syndicate shall consist of the following members, namely:—
>
> *Ex-officio Members*
>
> (i) The Vice-Chancellor;
>
> (ii) The Secretary to Government in-charge of the Higher Education Department or an officer not below the rank of a Joint Secretary to Government nominated by him;
>
> (iii) The Secretary to Government in-charge of the Finance Department or an officer not below the rank of a Joint Secretary to Government nominated by him;
>
> (iv) The Pro-Vice-Chancellor.
>
> *Elected Members*

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One member elected by the members of the Legislative Assembly, from among themselves.

Nominated Members

(i) One person nominated by the Vice-Chancellor from among the Heads of School of Studies as may be prescribed by Statutes;

(ii) Eight eminent persons nominated by the Government from the field of higher education, labour and industry, of whom one shall be from the Scheduled Caste or Scheduled Tribes and one shall be a woman;

(iii) One student nominated by the Government from among the registered students of the University." (Emphasis supplied)

11. From the above provision, the nominated members can be classified into three categories. The Vice-Chancellor may nominate one person from among the Heads of School of Studies, as may be prescribed by Statutes, and the Government may nominate one student from among the registered students of the University. The other one, which is to be discussed in this case, is that eight eminent persons nominated by the Government from the field of Higher Education, Labour and

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Industry, of whom one shall be from the Scheduled Caste or Scheduled Tribes and one shall be a woman. Therefore, eight eminent persons will be nominated by the Government.

12. What is the meaning of "eminent persons"?. "Eminent persons" means persons who are well known and highly respected, especially for outstanding ability, achievements or expertise in a particular field. As per Section 25 of the Act 2021, "eminent persons" nominated by the Government should be from the fields of Higher Education, Labour and Industry, of whom one should be from the Scheduled Caste or Scheduled Tribe, and one should be a woman. The word eminent person conveys more than mere fame; it implies distinction and earned respect. Admittedly, the petitioners were nominated as Syndicate members in the category of "eminent persons". There is no doubt that, if a legal right exists for nominated "eminent persons" and it is violated, they can approach a court of law to protect it. But every "eminent person" should remember that withdrawing a nomination does not necessarily withdraw

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recognition of eminence. Whether the governing statutes permit such withdrawal, or do not permit such withdrawal of a nominated eminent person, a perusal of Ext. P4 and P5 withdrawal order does not reflect adversely on the nominees' character, competence, or standing as a reason for the withdrawal. "Eminence" alone cannot confer an indefeasible right to continue in office unless there is statutory backing. The petitioners are entitled to question the legality of the action if it violates a statutory right. But that question must, however, be decided by reference to the statutory scheme and the permissible limits of the power exercised. I may add that gracefully accepting a lawful withdrawal may be a matter of personal dignity, and it cannot be made a legal obligation to forego the right to challenge it. Even though legal rights exist to challenge the withdrawal of nomination, I think eminent persons should show grace by accepting the withdrawal if no imputations against their "eminence" are made by withdrawing the nominations. That will only enhance their "eminence". "Eminent

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persons" should know that they are not the only "eminent persons" in this world; there are others also, and if they are nominated as Syndicate members because of their eminence, they should have accepted their withdrawal also because of their "eminence" without fighting with the Government to establish their "eminency". This is only an observation, but if the petitioners want to contest it, it is the petitioners' personal choice. Therefore, this court is forced to decide the matter on merit. I make it clear that the Government's decision to nominate the petitioners because they are "eminent persons" will not be affected even if this court upholds the impugned order withdrawing their nomination.

13. The first question to be decided is whether any statutory right of the petitioners is violated to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. A perusal of Sections 25 and 26 of the Act 2021 shows only that the Syndicate is to be reconstituted every four years and that the term of office of the members of the

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Syndicate, other than ex-officio members, shall be co-terminus with the term of the Syndicate. Section 25 of the Act 2021 is already extracted in paragraph 10 of this judgment. Section 26 (1) and (2) of the Act 2021 are extracted hereunder:

> **26. Reconstitution of the Syndicate.—**
> (1) The Syndicate shall be reconstituted in every four years.
>
> (2) The term of office of the members of the Syndicate other than ex-officio members shall be co-terminus with the term of the Syndicate.

14. From the above, it is clear that no term for the Syndicate is mentioned, and it only says that the Syndicate is to be reconstituted every four years. Moreover, no term is mentioned as far as the nominated members are concerned, as per Section 25 of the Act 2021. I think there is some force in the argument raised by Senior Counsel Advocate George Poonthottam, appearing for the party respondents, based on the comparison with the other statute and Sections 25 and 26 of the Act 2021. Adv. George Poonthottam made available a written note in which corresponding Sections in the other Universities

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Act are stated in comparison with the corresponding sections in the Act 2021. I will extract the entire note given by the Senior Counsel, Adv. George Poonthottam.

> **A. <u>SREENARAYANA GURU OPEN UNIVERSITY ACT, 2021</u>**
>
> Chapter IV deals with the Authorities of the University.
>
> a. Section 25 provides for the members of the Syndicate.
>
> b. Section 26 provides for reconstitution of the Syndicate, wherein, the relevant portion of Section 26(1) reads as hereunder:
>
> "**26. Reconstitution of the Syndicate** - (1) The Syndicate **shall** be **reconstituted** in **every four years.**"
>
> **B. <u>THE KERALA UNIVERSITY ACT, 1974</u>**
>
> Chapter IV deals with the Authorities of the University.
>
> a. Section 21 provides for the members of the Syndicate.
>
> b. Section 22 provides for the term of office of members of the Syndicate, the relevant portion of which reads as hereunder:
>
> "**22. Term of office of members of Syndicate.**-
>
> [(1) Members of the Syndicate, other than the ex-officio members, shall hold office **for a term of four years** [from the date of their election or nomination as the case may be.]
>
> Provided that no person elected in his capacity as a

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member of a particular body or as the holder of a particular office shall be a member of the Syndicate for a longer period than three months after he has ceased to be such member or holder of such office unless in the meanwhile he again becomes a member of that electorate or the holder of that office.

C. **COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY, 1986**

Chapter IV deals with the Authorities of the University, Staff Council and University Appellate Tribunal.

a. Section 17 provides for the members of the Syndicate.

b. Section 17(2) provides for the term of office of the members nominated under various categories, which reads as hereunder:

"**17 The Syndicate**

(2) The term of the office of the members nominated under items (vii), (viii), [(ix), (x), (xii), (xiii)] in sub-section (1) **shall be four years from the date of their nomination** and they [shall be eligible] for re-nomination:

Provided that no person nominated in his capacity as a member of the Legislative Assembly shall hold office as a member of the Syndicate for a longer period than three months after he has ceased to be such member of the Legislative Assembly, unless in the meanwhile, he again becomes a member of the Legislative Assembly.

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[Provided further that the members nominated by the Government under sub-section (1) of Section 17 shall hold their office during the pleasure of the Government.]

D. **MAHATMA GANDHI UNIVERSITY ACT, 1985**

Chapter IV provides for the Authorities of the University.

a. Section 21 provides for the members of the Syndicate.

b. Section 22 provides for the term of office of members of the Syndicate, the relevant portion of which reads as hereunder:

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

(1) Members of the Syndicate, other than ex-officio members, **shall hold office for a term of four years from the date of their nomination**:

Provided that no person [nominated] in his capacity as a member of a particular body or as the holder of a particular office shall be a member of the Syndicate for a longer period than three months after he has ceased to be such member or holder of such office unless in the meanwhile he again becomes a member of that [body] or the holder of that office:

[xxx]

Provided further that a member other than ex-officio member shall, notwithstanding the expiration of his term, continue to hold office until his successor is nominated:

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

E. **CALICUT UNIVERSITY ACT, 1975**

Chapter IV provides for the Authorities of the University.

a. Section 21 provides for the members of the Syndicate.

b. Section 22 provides for the term of office of members of the Syndicate, the relevant portion of which reads as hereunder:

"**22. Term of office of members of Syndicate.**-

[(1) Members of the Syndicate, other than ex-officio members, **shall hold office for a term of four years** [from the date of their election or nomination, as the case may be:]

Provided that no person elected in his capacity as member of a particular body or as the holder of a particular office shall be a member of the Syndicate for a longer period than three months after he has ceased to be such member or holder of such office unless in the meanwhile he again becomes a member of that electorate or the holder of that office:

[Provided also that the term of the Syndicate shall be co-terminus with the term of the Senate:]

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

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two terms in succession.

F. **KANNUR UNIVERSITY ACT, 1996**

Chapter IV deals with the Authorities of the University

a. Section 23 provides for the members of the Syndicate.

b. Section 24 of the term of office of members of the Syndicate, the relevant portion of which reads as hereunder.

"[**24. Term of office of members of Syndicate.**-

(1) Members of the Syndicate other than ex-officio members, shall hold office **for a term of four years from the date of their nomination**:

Provided that no person nominated in his capacity as a member of a particular body or as the holder of a particular office shall be a member of the Syndicate for a longer period than three months after he has ceased to be such member or holder of such office unless in the meanwhile he again becomes a member of that body or the holder of that office:

Provided further that a member other than ex-officio member shall, notwithstanding the expiration of his term, continue to hold office until his successor is nominated:

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

G. **KERALA AGRICULTURAL UNIVERSITY ACT, 1971**

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Chapter III deals with the Authorities of the University.

a. Section 14 provides for the members of the executive committee.

b. Section 15 provides for the term of office of members of executive committee, the relevant portion of which reads as hereunder:

"**15. Term of office of members of Executive Committee**

"(1) [An elected or nominated member] of the Executive Committee shall cease to hold office on the day immediately preceding the date of reconstitution of the General Council which elected him.

(2) The members of the Executive Committee, [other than the elected or nominated members] who have ceased to hold office by virtue of the provisions of Sub-section (1), shall be competent to exercise the powers and perform the functions of the Executive Committee under this Act and the Statutes, Ordinance and Regulations."

H. **NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES ACT, 2005**

a. Section 11 provides for the Authorities of the University.

b. Section 18 provides for the term of office of the members of the Executive Council, which provides as hereunder:

"**18. Term of office of the members of the Executive Council.**-

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(1) The term of office of the members of the Executive Council, **nominated or co-opted, shall be four years from the date of their nomination or co-option**, as the case may be.

(2) Where a person has become a member of the Executive Council by reason of the office or appointment he holds the membership shall cease when he ceases to hold that office or appointment or on removal by the nominating authority."

I. **SREE SANKARACHARYA UNIVERSITY OF SANSKRIT ACT, 1994**

Chapter IV deals with the Authorities of the University and the Appellate Tribunal

a. Section 12 provides for the members of the Syndicate.

b. Section 13 provides for the Constitution of Syndicate, which reads as hereunder:

"13. **Constitution of Syndicate.**- The Syndicate shall be constituted by the Chancellor and shall be **reconstituted every four years.**"

J. **KERALA VETERINARY AND ANIMAL SCIENCES UNIVERSITY ACT, 2010**

Chapter V deals with the Authorities of the University

a. Section 24 provides for the members of the Board of Management.

b. Section 25 provides for the term of office of members of Board of Management, the relevant portion of which reads as hereunder:

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"**25. Term of office of members of the Board of Management.**

(1) The term of office of members of the Board of Management, other than ex-officio members **shall be three years.**"

K. **KERALA UNIVERSITY OF FISHERIES AND OCEAN STUDIES ACT, 2010**

Chapter III deals with the Authorities of the University

a. Section 12 provides for the members of the University Governing Council.

b. Section 16 provides for the term of office of members of University Governing Council, the relevant portion of which reads as hereunder:

"**16. Term of office of members of University Governing Council.**-

(1) An elected or nominated member of the University Governing Council shall cease to hold office on the day immediately preceding the date of reconstitution of the University Governing Council which elected or nominated him.

(2) The members of the University Governing Council, other than the elected or nominated members who have ceased to hold office by virtue of the provisions of sub-section (1) shall be competent to exercise the powers and perform the functions of the University Governing Council under this Act and Statutes, Ordinance and Regulations made thereunder."

L. **KERALA HEALTH UNIVERSITY OF HEALTH**

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SCIENCES ACT, 2010

Chapter IV provides for the Authorities of the University.

a. Section 22 provides for the members of the Governing Council and the term of members of the Governing Council, which reads as hereunder:

"**22. Governing Council.**-

(5) Members of the Governing Council other than ex-officio members **shall hold office for a term of four years from their date of nomination.**"

M. **A.P.J. Abdul Kalam Technological University Act, 2015**

Chapter IV provides for the Authorities of the University.

a. Section 27 provides for the members of the Executive Committee.

b. Section 29 provides for the term of office of members of the Executive Committee, which reads as hereunder:

"**29. Term of office of members of the Executive Committee.**-

The members of the Executive Committee, other than ex- officio members, **shall hold office for a term of four years** from the date of their nomination. The term of office of other members of the Executive Committee shall be co- terminus with the office they hold."

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15. From the above, it is clear that, as per the respective statutes concerned, in certain universities, the term of an authority is specifically mentioned, and in certain universities, the term is not specifically stated. This shows that legislative discretion is exercised differently regarding the term of office of different authorities in different universities. When the legislature intends to fix a particular term for a syndicate or other authority in certain universities, but not for the syndicate and other authorities in some other university, that is a matter of legislative wisdom into which a court of law cannot intervene. This Court cannot step into the shoes of the legislature and declare that the Syndicate has a prescribed term unless the section on the term of the Syndicate is ambiguous. Now I will come to the relevant sections in the Act 2021. A reading of Section 26 of the Act 2021 makes it clear that there is only an outer limit to reconstitute a Syndicate. No specific term is mentioned for the Syndicate. By contrast, the Kerala University Act 1974 provides that Syndicate members, other than ex-officio

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members, shall hold office for a term of four years. Such a provision is not available in the Act 2021. Similarly, the other Acts extracted above also show that the nominated members' term is specifically mentioned by the legislature. But, as per the Act 2021, no such term is specifically mentioned for continuation, and it only says that the Syndicate shall be reconstituted every four years. Therefore, when the term is not specifically mentioned in the Act 2021, I am of the considered opinion that the petitioners have no legal right to continue for four years. Ext.P1 is the original nomination of the petitioners and others. It only says that the petitioners and others were nominated as Syndicate members, invoking the powers under Section 25 of the Act, 2021. Their term is not mentioned in Ext.P1. Ext.P2 is the consequential notification issued by the University after Ext.P1. Ext.P2 also does not mention a term. In such circumstances, as I mentioned earlier, when the statute does not provide a specific term for the nominated Syndicate members, the petitioners do not have any legal or statutory

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rights to continue for a period of four years just because Section 26(1) of the Act 2021 shows that the Syndicate shall be reconstituted every four years and Section 26(2) of the Act 2021 says that the term of office of the members of the Syndicate other than ex-officio members shall be co-terminus with the term of the Syndicate. That is why I said that eminent persons should show their grace while fighting to retain their nomination, if there is no violation of their statutory rights. When there is no term in Exts. P1, P2, and also as per the statute, I think, the petitioners' contentions that they have a statutory right to continue for four years cannot be accepted.

16. The State Attorney relied on Section 16 of the General Clauses Act, 1897. I think Section 16 of the General Clauses Act has little application in this case, because Section 16 of the General Clauses Act deals with "appointment" and not "nomination". It would be better to extract Section 16 of the General Clauses Act, 1897:

> "Section 16: Power to appoint to include power to suspend or dismiss - Where, by any Central Act or

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> Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power."

It says that if a power to make any appointment is conferred, then, unless a different intention appears, it includes the power to suspend or dismiss any person appointed. The above principle is settled and undisputed. But, admittedly, this case involves no "appointment", and here it is "nomination". Here, I agree with Advocate Girija, who appeared for the University and argued in detail about the difference between "appointment" and "nomination". There is a lot of difference between "appointment" and "nomination". The appointment ordinarily means the formal act of placing a person in an office or position. Nomination means designating or selecting a person for a position under a statute. As stated earlier, appointment is a formal placement in an office or position, while nomination is the designation or selection of a person for a position. As argued by Advocate

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Girija, Section 21 of the General Clauses Act has some bearing on "nomination", which deals with the power to issue, to include the power to add to, amend, vary or rescind, notifications, orders, rules or by-laws. But we need to go to such contentions only if the term of the syndicate is prescribed by the statute and the same is violated and consequently a legal right accrued to the petitioner. But this court already found that no legal or statutory rights of the petitioners are violated and hence the petitioners who are only nominated members of the syndicate have no legal right to challenge the withdrawal of their nominations as syndicate members.

17. The State Attorney also relied on the judgment of the Apex Court in **Shaikh Mahemud's case (supra)**. It would be better to extract the relevant portion of the above judgment.

> "9. It is relevant to point out that the appointment of the first respondent was by the method of nomination by the State Government in terms of clause (c) of sub-section (1) of S.14. The appointment under both categories (election or nomination) should be by a notification issued by the State Government and published in the official Gazette. This is by virtue of sub-

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section (9) of S.14. Sub-section (9) of S.14 reads as follows:

> "14. Composition of Board. - xxxx xxxx xxxx
>
> (9) The members of the Board shall be appointed by the State Government by notification in the Official Gazette."

10. It is true that S.15 prescribes a term of office of five years for the members of the Board, from the date of the notification issued under S.14(9). This S.15 reads as follows:

> "15. Term of office. - The members of the Board shall hold office for a term of five years from the date of notification referred to in sub-S.9 of S.14."

11. Though S.14(9) is common to the appointment under both categories and though S.15 speaks about the term of office of members appointed by a notification under S.14(9), nomination always stands on a slightly different footing than election. Perhaps, as per the scheme of the Act, it may not be possible for the State Government to breach the process of election from each of the electoral colleges under clause (b) of sub-section (1) of S.14, by curtailing the term of office of such elected members. But the same logic cannot be extended to nominated members. In other words, it may not be possible to hold that there is no elbow space for the State Government in the cases of nomination covered by clauses (c), (d) or (e).

12. It must be noted that under clause (e) of sub-section (1) of S.14, an officer of the State Government

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not below the rank of Joint Secretary to Government may be nominated to the Board. If S.15 is construed in the manner in which the High Court has construed, such a nominated officer of the State Government may have to be allowed to continue, even if he reaches superannuation before completing five years of tenure. Therefore, it is not possible to accept the view of the High Court that the term of office prescribed under S.15 cannot be curtailed. This is so at least in respect of a nominated member.

13. For holding that the cancellation of appointment of the first respondent was arbitrary, the High Court did not really have any material. The only reason why the High Court held it to be arbitrary is that the order of cancellation of appointment did not contain any reason and that the cancellation went against S.15. For holding the action of the Executive to be arbitrary, there must be a factual basis. It did not exist in this case.

14. It was contended by the learned counsel for the first respondent that the notification of cancellation of appointment was issued in exercise of the powers conferred by sub-section (9) read with clause (c) of sub-section (1) of S.14. Since these provisions deals only with appointment and not with removal, it was contended by the learned counsel for the first respondent that the notification of cancellation was not in accordance with law.

15. But the above contention loses sight of the fact

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that the power to appoint would include the power of cancellation of appointment. Therefore, the said contention is liable to be rejected.

16. It was next contended by the learned counsel for the first respondent that the procedure prescribed under S.20 of the Act for the removal of the respondent was not followed. But this contention is unsustainable, in view of the fact that the respondent was not removed from the office of membership of the Waqf Board. His appointment was cancelled by the notification impugned in the writ petition. Therefore, S.20 has no application to the case."

18. The above decision only reiterates the principle of Section 16 of the General Clauses Act, 1897. Since Section 16 of the General Clauses Act, 1897, may not be applicable to the facts of this case, I think this Court need not discuss the same in detail.

19. Adv. Elvin Peter relied on several judgments to support his contentions. The first judgment relied on by Senior Counsel, Adv. Elvin Peter, is **State of Kerala V. Thiruvanchoor Radhakrishnan [1997 KHC 155]**. The Senior Counsel relied on paragraph Nos.5 and 6 of the above judgment.

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It would be better to extract the same.

> "5. Challenging the order of the learned Single Judge, it was first contended on behalf of the appellants that the Government is free to withdraw the nomination of any nominated member to any statutory body at its pleasure and such nominated members do not have any vested right to continue in the nominated posts till the expiry of their terms as stipulated. The first contention has to be rejected. A distinction has to be drawn between cases in which nominees hold office during the pleasure of the Government and nominees whose term of office do not depend upon such pleasure. In cases where nominees do not hold office during the pleasure, their term is not liable to be terminated otherwise than for reasons stated in the Statute.
>
> 6. S.17(2) of the Act provides that the terms of office of the members nominated from among the members of the Legislative Assembly of Kerala shall be four years from the date of their nomination. S.17(1)(x) of the Act, provides that the Syndicate of the University shall consist of two persons nominated by the Government from among the members of the Legislative Assembly of Kerala. The Syndicate is a statutory body. The reconstitution of the Syndicate every four years can be arranged only by the Registrar under the directions of the Vice-Chancellor as per Statute 74 of the Cochin University First Statutes, 1980. It is a statutory rule that the process of nomination to vacancies can be done

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by the nominating bodies like the Government, only upon such vacancy being determined and informed either by the Vice-Chancellor or the Registrar. This has been the practice in vogue in the University as it can be seen from the letter dated 8.8.1991, Ext. P4, issued by the Registrar of the University of the Government. Thus, the Government have no power to nominate at their whims and fancies, thereby eroding the authority of statutory bodies constituted to secure excellence in the field of education independent of Governmental interference. In view of these provisions, it cannot be contended that the Government can withdraw the nomination at any time. The decision in OM. Narain Agarwal and Ors. v. Nagar Palika Shahjahanpur and Others 1993 (2) SCC 242 cannot be of any help to the appellate. In the said case, the statute had itself provided that the nominated member shall hold office during the pleasure of the State Government

6A. In accordance with the terms of S.17(2) of the Act, the term of office of the nominated member from among the members of the Legislative Assembly of Kerala shall be four years from the date of their nomination and in accordance with S.17(1)(x) of the Act the Syndicate shall consist of two such nominated persons by the Government from among the member of the Legislative Assembly of Kerala. Thus, such a nominated member shall, normally for a term of four years from the date of his nomination, unless he ceases

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> to be a member of the Legislative Assembly or incurs disability to continue as a member of such Body under S.46(4) of the Act which has specifically stated that if any member who is not an ex officio member, fails to attend three consecutive meetings then he shall cease to be a member of the Syndicate. Therefore, the contention of the appellants that such a nominated member can be removed at any time in accordance with the pleasure of the Government is not tenable."

20. The above decision was rendered by the Division Bench of this Court as far as the nomination to the Syndicate as per the Cochin University of Science and Technology Act, 1986 (for short 'Act, 1986 ') is concerned. Sec.17 is the relevant provision in that case. Sec.17(2) of the Act, 1986 clearly says that the term of office of the members nominated under items (vii), (viii), (ix), (x), (xii) and (xiii) in sub-section (1) shall be four years from the date of their nomination. This shows that the syndicate members have a fixed term, and in that context, the Division Bench of this Court made the above observation. As I mentioned earlier, on a combined reading of Secs. 25 & 26 of the Act, 2021, no term is fixed for the syndicate's nominated

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members. Therefore, that principle is not applicable to the facts of the case.

21. Senior Counsel, Adv. Elwin Peter also relied on this Court's judgment in ***Saji D Anand's*** case (supra). The Counsel relied on paragraph 9 of the above judgment. It will be better to extract the same:

> 9. "In the background of the above, the first case to be examined is with reference to the Kerala Labour Welfare Fund Board. The Kerala Labour Welfare Fund Board is constituted under the Kerala Labour Welfare Fund Act, 1975. S.4 of the said Act contemplates the establishment of Board. S.5 refers to the constitution of Board. The petitioner in WP (C) No. 24099 of 2016 was nominated as a member of the Board as representative of the employee. S.7 refers that the term of office of members is three years. S.8 provides disqualifications and removal which reads as follows:
>
> > "8. Disqualifications and Removal.-- (1) No person shall be chosen as, or continue to be, a member of the Board if he—
> > (a) is an officer or servant under the Board; or
> > (b) is an undischarged insolvent; or
> > (c) is of unsound mind; or
> > (d) has been convicted by a Criminal Court for an offence involving moral turpitude, unless such conviction has been set aside; or

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(e) is in arrears of any sum due to the Board.

(2) The Government may remove from office any member who—

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1) or

(b) is absent without leave of the Board for more than three consecutive meetings of the Board."

There is no explicit or implicit provision to invoke the doctrine of pleasure by the Government to remove or terminate the membership of a non - official nominee before the term is over. When a statutory provision is explicit as regard to the manner of removal, it must be presumed that the Legislature has taken away powers to invoke pleasure doctrine to remove a member from the Board / Corporation otherwise than in accordance with the statutory provision. In the absence of any statutory provision to invoke the doctrine of pleasure for removal of the nominee, it can be only in accordance with S.8."

22. This Court considered the explicit and implicit provision to invoke the Doctrine of Pleasure by the Government to remove or terminate the membership of a non-official nominee before the term is over. This Court observed that when a statutory provision is explicit as regards the manner of removal, it must be presumed that the legislature has taken away the power to invoke the pleasure doctrine to remove a member from the

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Board/Corporation otherwise than in accordance with the statutory provisions. It is also observed that, in the absence of any statutory provision to invoke the doctrine of pleasure for removal of the nominee, removal can occur only in accordance with Sec. 8 of the statute concerned. Sec. 8 of the Statute mentioned in ***Saji D Anand's*** case (supra) is extracted in paragraph 9 of that judgment. I see no such corresponding provision in the Act, 2021 regarding disqualification and removal of nominated members. This Court made the above observation in paragraph 9 of ***Saji D Anand's*** case (supra), based on Sec.8 of the Statute mentioned in that judgment. But, such a provision is not available in the Act, 2021 and therefore, according to me, that dictum is also not applicable to the facts of this case.

23. ***Saji D Anand's*** case (supra) was taken up in appeal, and the Writ Appeal was dismissed by a Division Bench of this Court in ***State of Kerala v. Saji D Anand and another*** [2018 KHC 28]. As I mentioned earlier, since the Act 2021 contains no corresponding provision like Sec. 8 of the Act mentioned in that

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judgment, this Court need not consider the dictum laid down by the Division Bench in ***Saji D Anand's*** case (supra). The Senior Counsel, Adv. Elwin Peter also relied on paragraph 2 of the judgment of this Court in ***All Kerala Private College Teachers Association's*** case (supra), which is also extracted hereunder:

> 2."We may briefly examine the relevant provisions of the Two Acts. The primary object, of establishing a university by an Act of the State Legislature, is to make the institution an independent autonomous authority with a view to minimise the outside interference in its functioning. Dr. S. Radhakrishnan, in the University Education Commission's Report 1950 observed as under :-
>
> > "..... We must resist, in the interest of our democracy, the trend towards the Governmental domination of the educational process. ..... Higher education is undoubtedly an obligation of the State but State aid is not to be confused with State control over academic policy and practices. Our Universities should be released from the control of politics ....."

24. The Senior Counsel relied on the above judgment only to show that the Government domination of the educational process is to be deprecated. There is no dispute of that fact. But

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here, the Act, 2021 gives the Government power to nominate eminent persons as syndicate members under Secs. 25 and 26. Therefore, when the Act empowers the Government to nominate eminent persons, and when there is no specific provision in the Act, 2021 fixing the term of the nominated members, I am of the considered opinion that withdrawing the nomination by the Government cannot be treated as a Governmental domination of the matters relating to the University. Therefore, that decision is also not applicable to the facts of this case. The Senior Counsel also relied on the judgment of the Apex Court in ***Cheviti Venkanna Yadav v. State of Telangana and Others*** [2017 (1) SCC 283]. The Senior Counsel relied on paragraph Nos. 32 of the above judgment, which is extracted hereunder:

> 32. The word 'appointment' has been substituted by 'nomination'. It is an appointment by nomination. It is from certain categories for the purpose of representation. It is not appointment as the word ordinarily connotes. The legislature, in its wisdom, has substituted the word 'appointment' and made it 'nomination with retrospective effect'. To enable it to curtail or reduce the term, the procedure for removal remains intact. A nominee can go from office by efflux of time when

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the period is over. That is different than when he is removed. A nominated member, in praesenti, can also be removed by adopting the procedure during the period. Otherwise, he shall continue till his term is over; and the term is one year. The plea of vested right is like building a castle in Spain. It has no legs to stand upon and, therefore, we unhesitatingly repel the said submission." (Underline supplied)

25. According to me, the above dictum is also not applicable in the light of my finding that no term is fixed for the nomination of the members of the syndicate as per the Act, 2021, whereas a term is fixed in the nomination mentioned in the above judgment and in such circumstances the apex court laid down the above dictum.

26. Adv. Girija appeared for the university relied on an unreported judgment of the Karnataka High Court dated 23.01.2025 in WA No. 632/2024 (GMRES). It would be better to extract the relevant portion of the above judgment:

"6.3 This High Court in H. Rajaiah and others Vs. State of Karnataka, 2000 (6) Kar.LJ 401 addressed the very issue of premature removal of nominated members before the completion of the tenure in the context of the provisions of Karnataka Urban Development Authorities Act, 1987 to

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specifically observe that the intensity of judicial review in respect of decision relating to making or unmaking the nomination, is very low. According to this High Court, as observed in H. Rajaiah (supra), Doctrine of Pleasure could not be viewed just as a relic of arbitrary power of absolute monarch but, it has its own purpose which empowers the State Government to remove a government servant from the office when such government servant is intended to hold the office at the desire and pleasure of the government.

6.3.1 It was stated that in India the recognition of the doctrine is found incorporated in the provisions of Articles 76(4), 156(1), 165(3) and 311 of the Constitution. It was held that the Doctrine and the amplitude of power available thereunder cannot be viewed to be violative of Right to Equality. This Court in H. Rajaiah (supra) relied on the very decision of the Supreme Court in Om Narain Agarwal (supra) and highlighted the nature of the nominations,

> "Such then is the nature of the nominations. They are made without following any transparent or objective process of selection of those vying for such nominations. They hold good during the pleasure of the Government and are therefore tenuous lacking certainty or security of tenure. The intensity of review of any decision relating to the making or unmaking or a nomination has thus to be low. ..." (para 15)"

27. Detailed contentions were raised by both sides regarding the 'doctrine of pleasure' which is dealt in the above decision also. According to the Senior Counsel, Adv. Elwin Peter, there is no specific provision in the

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Act, 2021, for the Government to invoke the powers under the principle 'Doctrine of Pleasure'. On the other hand, counsel for the respondents submitted that the 'Doctrine of Pleasure' can be implied, and the decision of the Karnataka High Court in WP No. 10851/2023 (S-RES) is also relied upon. The relevant portion of the judgment dated 28.10.2025 in WP No. 10851/2023 is extracted hereunder:

> "9. There is no dispute that the petitioners were nominated as Senate Members of the Nursing Council as per the notification dated 28.03.2023; subsequently, there was a change in the administration and the Government has issued a notification on 24.05.2023 cancelling the nomination of the petitioners. I have perused Section 3(2)(c), of the Act of 1961, wherein the State Government, by notification, can nominate three persons, for Karnataka Nursing Council as per Section 3 of the Act of 1961, where, at least one person shall be a woman, which reads as follows:
>
> > "3. Establishment, incorporation and constitution of Council.-
> > (2) The Council shall consist of the following members:-
> > (c) as nominated members, three persons to be nominated by the State Government of whom at least one person shall be a woman: Provided that the members to be elected under clause (b) shall in

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> respect of the first Council, be nominated by the State Government from persons who in the opinion of the State Government are entitled to be included in the electorate or body concerned and shall hold office for a period of two years."

Pursuant to the said provision, the petitioners were appointed as Senate Members of the Nursing Council. There is no provision prescribed under the Act for removal of the nominated members of the Nursing Council. In the absence of any provision under the Act of 1961, Section 16 of the Act of 1897 which deals with the power to appoint, which would include the power to suspend or dismiss, reads as follows:

> "16. Power to appoint to include power to suspend or dismiss.—Where, by any Central Act or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power."

Section 16 of the Act of 1897 provides that if a person is appointed under any Act or Regulation, the authority may have a power to suspend or dismiss any person appointed. Also, Section 21 of the Act of 1897 deals with the power to issue, to include, to add to, amend, vary or rescind the notifications, orders, rules or bye-laws, which reads as follows:

> "21. Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or byelaws.—Where, by any Central Act or Regulations a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power,

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> exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued."

So, Section 21 empowers an authority which has the power to issue a notification, has undoubted power to rescind or modify the notification in the like manner. The Hon'ble Supreme Court in the case of Rasid Javed (Supra) held that, the authority which has the power to issue a notification, has the power to rescind or modify the notification in the like manner. Though the nominating authority i.e., the State Government issued the notification nominating the petitioners as members to the Council, subsequently, in view of the change in the Government, the nominated authority withdrawn the membership of the petitioners as members of the Council. In view of the same, the petitioners are required to accept the position of law, gracefully, as there is no requirement to permit either with or without compliance of the principles of natural justice, like in the case of appointment of the post. The Hon'ble Supreme Court in the case of Cheviti Venkanna Yadav vs. State of Telangana and Others, held as follows:

> "33. The aforesaid argument suffers from a fallacy. The members were not elected. They were not appointed by any kind of selection. They were chosen by the State Government from certain categories. The status of the members has been changed by amending the word "appointed" by substituting it with the word "nominated". Thus, the legislature has retrospectively changed the meaning.

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> In our considered opinion, by virtue of the amendment, the term which has been reduced for a nominated member stands on a different footing. In Om Narain Agarwal v. Nagar Palika, Shahjahanpur [Om Narain Agarwal v. Nagar Palika, Shahjahanpur, (1993) 2 SCC 242] (SCC p. 254, para 11) it has been held that if an appointment has been made initially by nomination, there can be no violation of any provision of the Constitution in case the legislature authorised the State Government to terminate such appointment at its pleasure and to nominate new members in their place. It is because the nominated members do not have the will or authority of any residents of the Municipal Board behind them as may be present in the case of an elected member. The Court further observed that such provision neither offends any article of the Constitution nor is the same against any public policy or democratic norms enshrined in the Constitution.
>
> 34. The word "appointment" has been substituted by "nomination". It is an appointment by nomination. It is from certain categories for the purpose of representation. It is not appointment as the word ordinarily connotes. The legislature, in its wisdom, has substituted the word "appointment" and made it "nomination with retrospective effect". To enable it to curtail or reduce the term, the procedure for removal remains intact. A nominee can go from office by efflux of time when the period is over. That is different than when he is removed. A nominated member, in praesenti, can also be removed by adopting the procedure during the period. Otherwise, he shall continue till his term is over; and the term is one year. The plea of vested right is like building a castle in Spain. It has no legs to stand upon and, therefore, we unhesitatingly repel the said submission."

It is settled legal proposition that the right created by the statute cannot be curtailed by such a statute and in

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the absence of some other competent right under the statute or under the Constitution of India, a right proposed cannot be claimed. It is equally settled legal proposition that the doctrine of pleasure can be implied if read in a provision and once the doctrine of pleasure is applicable, neither the principles of the natural justice nor question of giving an opportunity before removal could arise and does not provide any provision for removal of the members of the Nursing Council. In the absence of the specific provisions which provides for removal of the members of the Nursing Council, Section 16 and Section 21 of the Act of 1897 would apply. The Division Bench of this Court in the case of The State of Karnataka Vs. Dr. Deepthi Bhava and Others held that, in the absence of any specific provision 4 WA No.617/2021, disposed of on 25.09.2021 in the Act for removal of the nominated members prior to reconstitution of Senate or Syndicate, the provisions of Sections 21 and 24 of the Rajiv Gandhi University of Health Sciences Act, 1994 (which speak about the constitution of senate and syndicate) have to be read along with Sections 16 and 21 of the Act of 1897. Therefore, the State Government has power to recall the nominations of persons, nominated to the Senate and Syndicate even before reconstitution of Senate or Syndicate in its entirety. As observed above, when the Act of 1961 does not contain a clause to remove the members of

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> Senate or Syndicate, Sections 16 and 21 of the Act of 1897 together include the power to nominate carries with it power to remove. Applying the Sections 16 and 21 of the Act of 1897, the State Government has issued the notification cancelling the notification issued earlier by virtue of impugned notification. The issue involved in the instant case is fully covered by the order of the Division Bench of this Court in the case of Pallavi Vastrad (Supra). This Court, referring to the judgment of the Hon'ble Supreme Court, has held that, removal of the petitioner is non-stigmatic and non-punitive. From the perusal of the impugned notification, it does not reflect that the said notification is stigmatic and punitive. Hence, it is at the pleasure of the Government to nominate or remove the members from the Council. Considering the order passed by this Court in the case of Pallavi Vastrad (Supra), I do not find any ground to entertain the writ petition." (underline supplied)

28. I respectfully agree with the principle laid down by the Karnataka High Court. In the light of the judgment of the Apex Court relied upon by the Single Judge of the Karnataka High Court, it is a settled legal position that the "doctrine of pleasure" can be implied if it is clear, when read into a provision, and once the doctrine of pleasure is applicable, neither the principles of

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natural justice nor the question of giving an opportunity before removal would arise.

29. But, we need not go to the above provision also, because this Court already found that no specific term is mentioned for the members nominated to the syndicate as per the Act 2021. Moreover, even if the contention of the petitioner is accepted that there is no provision giving the right to the Government to withdraw the nomination of an eminent person as a syndicate member, based on the doctrine of pleasure in the Act, 2021, there is an implied provision like that in this case because no term is fixed for the nomination of the Syndicate members in Sections 25 and 26 of the Act, 2021. Adv. Girija also relied on some other judgments while arguing the matter. I think those judgments need not be discussed in detail in light of the above discussion. Similarly, the other contentions raised by Adv. Girija also need not be discussed in detail, in light of my finding that no specific term is mentioned for the nominated Syndicate members under Sections 25 and 26 of the Act, 2021.

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Therefore, I am of the considered opinion that there is nothing to interfere with the impugned orders withdrawing the nomination of the petitioners.

30. Before parting, I have to add the following also. The 1st petitioner was the former Pro-Vice-Chancellor of the Kerala University, and the others are also "eminent persons" according to the Government, and hence the then government nominated them as Syndicate members as per Ext. P1 and P2. The "eminent persons" should always behave "eminently". Since I found that no statutory term is fixed for the nominated Syndicate members, and no imputations are alleged against the petitioners in Ext. P4 and P5 for withdrawing their nomination, they have no legal right under the statute to continue for four years. The withdrawal of nomination does not mean that they are not "eminent persons". They will continue to be eminent persons, and the impugned orders do not degrade or insult their "eminence". In my view, they should accept the withdrawal of their nomination as Syndicate members with grace; a graceful

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acceptance would be commendable and would only enhance the "eminence" of the petitioners. I leave it there.

The upshot of the above discussion is that I see absolutely no reason to interfere with the impugned orders because no legal or statutory rights of the petitioners are violated by withdrawing their nomination as Syndicate members. Hence, this writ petition has no merit. Accordingly, this writ petition is dismissed.

Sd/-

P.V.KUNHIKRISHNAN
JUDGE

JV/DM/SSG/SKS/AJ

Judgment reserved	27.10.2026
Date of Judgment	11.11.2026
Judgment dictated	02.11.2026
Draft Judgment placed	03.11.2026
Final Judgment uploaded	11.11.2026

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APPENDIX OF WP(C) NO. 27541 OF 2026

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE ORDER NO. HEDN-B2/4/2025-HEDN DATED 14.03.2025.
EXHIBIT P2	TRUE COPY OF THE NOTIFICATION NO. AD.A2/1/200/SYND/SOU/2025/N2 DATED 16.04.2025.
EXHIBIT P3	TRUE COPY OF THE ABOVE DECISION REPORTED IN 2014 (1) KLT 520.
EXHIBIT P4	A TRUE COPY OF THE ORDER G.O.(P) NO. 30/2026/HEDN DATED 01.08.2026 ISSUED BY THE GOVERNMENT WITHDRAWING THE NOMINATIONS OF THE PETITIONERS AND OTHER MEMBERS OF THE SYNDICATE OF THE UNIVERSITY AND NOMINATING THE RESPONDENTS 5 TO 13 AS THE NEW MEMBERS OF THE SYNDICATE OF THE UNIVERSITY.
EXHIBIT P5	TRUE COPY OF THE ORDER NO. AD.A2/1/200/SYND/SOU/2026 DATED 01.08.2026 ISSUED BY THE 3RD RESPONDENT.
EXHIBIT P6	True copy of the Order G.O.(P) No. 36/2026/HEDN dated 14.08.2026 issued by the Government.
EXHIBIT P7	True copy of the Government Order G.O. (P) No. 38/2026/HEDN dated 24.08.2026.