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IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

W. P. No. OF 2009

Between :

Dr.K.Krishna Kumar,
s/o. K.Nagi Reddy,
Hindu, aged 43 years,
Occ: Veterinary Doctor, Dept. of Animal Husbandry, A.P.,
Presently working at Animal Quarantine & Certification Services,
Rajiv Gandhi International Airport, Shamshabad,
Hyderabad.

.... Petitioner

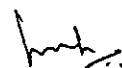
A n d

1. Government of India,
Department of Animal Husbandry
Dairying & Fisheries, rep. by Secretary,
Krishi Bhavan,
New Delhi.
2. Veterinary Council of India,
Rep. by its Secretary,
A Wing, II Floor, August Kranti Bhavan,
Bhikaji, Cama Place,
New Delhi.
3. Returning Officer-cum-Veterinary Council of India,
Room No. 230, Krishi Bhavan,
New Delhi.
4. A.P. State Veterinary Council,
Rep. by its President,
Shanti Nagar, Masab Tank,
Hyderabad.

.... Respondents

AFFIDAVIT

I, Dr.K.Krishna Kumar, s/o. K.Nagi Reddy, Hindu, aged 43 years, Occ:
Veterinary Doctor, Dept. of Animal Husbandry, A.P., Presently working at
Animal Quarantine & Certification Services, Rajiv Gandhi International Airport,
Shamshabad, Hyderabad, do hereby solemnly affirm and sincerely state on oath as
follows :



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1. I am the petitioner herein and as such I am well acquainted with the facts of the case.

2. I respectfully submit I am the member of the 2nd respondent council. I am permanent employee of Department of Animal Husbandry, A.P. and I am presently working on deputation at Animal Quarantine & Certification Services, Rajiv Gandhi International Airport, Shamshabad, Hyderabad. I am intending to contest in the forthcoming elections for the post of Member of the 2nd respondent Council to be held on 30.11.2009. My serial number is 25 on the Ballot Paper.

3. It is humbly submitted I am filing the present writ petition questioning the elections proposed to be held on 30.11.2009 for election of 11 members to the 2nd respondent Council without following the procedure contemplated under the statutory rules and for a consequential order directing the respondents 1 to 3 to postpone the schedule of election by incorporating the updated addresses of respective members enabling them to exercise their franchise.

3. It is humbly submitted that I am one of the members of the 2nd Respondent and 4th Respondent Councils. The 2nd Respondent Council is the statutory body of Govt. of India established under Indian Veterinary Council Act. The activities are being monitored by the Govt. of India including financial aspects. The 4th respondent is also a statutory body of the Govt. of India constituted under VCI Act, 1994 vide G.O.Ms.No. 180. The 4th respondent is one of the constituent of 2nd Respondent council. Every State in India will have a Body of this nature. Any Veterinarian registered with the 4th Respondent will automatically become member of the 2nd Respondent. All the members are governed by the Rules and

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Regulations of the said Act. As stated above, the 2nd Respondent is a Statutory Body of the Govt. of India consisting of 27 members out of which 16 members are nominated and ex-officio and remaining 11 are elected members. The elections are to be conducted once in every three years. These 11 members will be elected from among the members of the Council throughout India. In exercise of powers conferred by Sec.84 r/w. Sec.4 of the Indian Veterinary Council Act 1984 Rules are framed on 23.4.1985 which are called 'The Indian Veterinary Council Rules 1985', where under the Rules are framed for conducting elections.

4. While the matters stood thus, the 3rd Respondent issued election notification on 12.10.2009 giving election schedule where under it is stated that the nominations are to be received from 12.10.2009 to 19.10.2009. Scrutiny will be done on 24.10.2009 and Withdrawal of nominations on 26.10.2009. The scheduled date of election is 30.11.2009. The date of counting of ballot papers is on 1.12.2009. The notification is filed herewith as Ex.P1. As per the Rule 10(1) (d) of the Rules, the election shall not be conducted not earlier than the 35th day after the Last Date for Withdrawal of Candidatures. Accordingly, the Date of Election is fixed on 30.11.2009. As per Rule 4 of the said Rules, the preparation of Draft Electoral Roll is to be done and Objections if any, are to be sent within 15 days from the Date of Publication of Draft Rule under Rule 5.

5. It is humbly submitted that Draft Electoral Roll containing the names of the members up to 31.3.2008 was prepared and the same was sent to the respective State Units for displaying the same at their Councils for inspection by the members as per the Rules for a period of 15 days with a request to forward all claims and objections so received by them to the Council on or before 21.8.2009. It appears that the Draft Roll was sent to the 4th respondent for taking necessary

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action in this regard. In response to the said communication, the 4th respondent vide letter No. 706/T/2009 dated 20.8.2009 sent the updated addresses of respective members enclosing a C.D. giving the present addresses of respective members for updating the rolls. The copy of the letter sent by the 4th respondent is herewith filed as Ex.P2. On receipt of the said letter vide File No.10-3/2009-VCI/4080-4110 dated 28.8.2009, the 2nd respondent informed to all the respective State Units stating that they have updated the Electoral Roll as per the information sent by the State Unit. The copy is herewith filed as Ex.P3. In fact, no such exercise has been done by the 2nd respondent nor even looked into the information sent by the 4th respondent and other State Units regarding updating the latest information of the Electoral Roll. Similar letter addressed by the Gujarat Veterinary Council to the 2nd respondent is filed herewith as Ex.P4.

6. It is humbly submitted that because of the indifferent attitude being shown by the 2nd Respondent in getting the latest addresses updated of the respective members it appears that the Ballot Papers are sent to the old addresses shown at the time of registering themselves as members. The 2nd Respondent being an authority constituted by the Statute should have taken care and note of the information furnished by the respective State Units for updating the latest addresses. Because of the action on the part of the 2nd respondent in sending the Ballot Papers to the respective members to their old addresses more than 60% of the Ballot Papers will be undelivered and the same will be returned to the 3rd respondent as 'Undelivered'. In spite of the reminder given by the 4th respondent to the 2nd respondent, no action has been taken for rectification of the addresses. If the elections are conducted it is nothing but farce. Most of the members cannot exercise their franchise given to them by the Constitution as a fundamental right. No person can be denied to exercise of their franchise due to the lethargic attitude

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shown by the 2nd Respondent. Till date, most of the members did not receive the Ballot Papers enabling them to send them back to the 3rd respondent by exercising their franchise. In the instant case the list furnished by the 2nd respondent more than 60% addresses of the members are wrong addresses and the Ballot Papers are sent to those addresses without sending the Ballot Papers to the latest addresses of the respective members. The copy of the Voters List placed in the website by the 2nd respondent is herewith filed as P5.

7. It is humbly submitted when the 4th respondent came to know about the above irregularities, addressed a letter to the 1st respondent on 17.11.2009 bringing to his notice that about 90% of the registered Veterinarians have not received Ballot Papers till date giving rise to suspicion of the rigging of the election process and the President himself did not receive the Ballot Paper till date. The copy of the letter is filed herewith as Ex.P6. Though the letter has been addressed by the 4th respondent to the 1st and 4th respondent, no action has been taken either by the Respondents 1 to 3 either to postpone the elections or to see that the Ballot Papers are received by the members to their latest updated addresses enabling them to exercise their franchise. The action of the Respondents 2 & 3 gives rise to any amount of suspicion of rigging of election process by preventing the genuine members to exercise franchise, sending the Ballot Papers to their wrong addresses knowing pretty well that the members are not residing in the addresses where the Ballot Papers were sent. Even if the Ballot Papers are received today, it will take another 10 days to receive the same by the 3rd respondent and by that time, counting will be over and if the Ballot Papers are received by the 3rd respondent, no purpose will be served. It has been a regular and common practice every three years sending the Ballot Papers are sent to wrong addresses and to see that the persons who are having vested interests to get themselves elected. It is pertinent to

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submit here that there is no accountability on the part of the 3rd respondent in respect of the undelivered Ballot Papers. The modus operandi is the 3rd respondent sends the Ballot Papers under certificate of posting to the respective addresses and some of the contesting candidates manage the postal authorities to see that the Ballot Papers are not served to the members and take away the Ballot Papers and simply forge the signatures of the respective members and there is no verification to ascertain whether the signatures is genuine or not. If the Ballot Papers are sent by Regd. Post there is every possibility of reducing this kind of practice.

8. It is humbly submitted though the time of 35 days is fixed from the date of withdrawal of nominations to the polling date which is not at all mandatory which can be suitably modified in the ends of justice enabling every member to exercise their franchise in a democratic manner. The exercise of franchise is a fundamental right guaranteed under Constitution which cannot be taken away by some vested interest persons. No prejudice will be caused even if the elections are postponed to some other day giving opportunity to all the members to participate in the democratic process. If the election process is conducted as scheduled without updating the addresses, the petitioner will be put to irreparable loss.

9. In the circumstances stated above, the petitioners have no efficacious alternative remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India. The petitioners have not filed any writ petition, suit or other proceedings for the relief sought herein.

10. It is, therefore, prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the Respondents 1 to 3 in conducting the Elections on 30.11.2009 as per

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Notification dated 12.10.2009 without updating the latest addresses of the respective members enabling them to exercise their franchise for the election of 11 members to the 2nd respondent Council as per the updated list of the Draft Electoral Rolls furnished by the 4th respondent to the 2nd respondent council as illegal, arbitrary, null and void. and for a consequential order directing the Respondents 1 to 3 to either postpone the election scheduled to be held on 30.11.2009 or to give a new schedule of election giving opportunity to all the members to participate in the elections by updating the latest addresses and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

11. It is also just and necessary that this Hon'ble Court may be pleased to grant stay of election scheduled to be held on 30.11.2009 as per Notification issued by 3rd respondent dated 12.10.2009, and to pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Solemnly and sincerely affirm this
 the 24th day of November, 2009
 and signed his name in my presence


 DEPONENT

Before me :

Advocate : Hyderabad

12

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VERIFICATION STATEMENT

I, Dr.K.Krishna Kumar, s/o. K:Nagi Reddy, Hindu, aged 43 years, Occ: Veterinary Doctor, Dept. of Animal Husbandry, A.P., Presently working at Animal Quarantine & Certification Services, Rajiv Gandhi International Airport, Shamshabad, Hyderabad, being the petitioner/person acquainted with the facts do hereby verify and state that the contents of paras 1 to 8 etc., of the Affidavit filed in support of the writ petition are true to my personal knowledge, those of Paras 9 to 11 etc., are based on legal advice believed to be correct.

Verified at Hyderabad on this the 24th day of November, 2009

Advocate


Deponent