

IN THE HIGH COURT OF JUDICATURE: ANDHR PRADESH: AT HYDERABAD

W.P.NO. 25775/2009

Between:

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

..... Petitioner

And

1. Government of India,
Department of Animal Husbandry
Dairying & Fisheries, rep.by its Secretary,
Krishi Bhavan, New Delhi.

2. Veterinary Council of India,
represented by its Secretary,
A Wing, II Floor, August Kranti Bhavan,
Bhikaji, Cama Place, New Delhi.

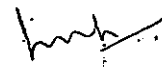
3. Returning Officer,
Room No.230, Krishi Bhavan,
New Delhi.

4. A.P. State Veterinary Council,
Represented by its President,
Shanti Nagar, Masab Tank,
Hyderabad.

.....Respondents

**COMMON REPLY AFFIDVIT FILED BY THE PETITIONER TO THE
COUNTER AFFIDAVIT FILES BY THE RESPONDENTS 1, 2 AND 3**

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



1. I am the Writ Petitioner in the above Writ Petition as such I am well aware of the facts of the case.

2. I humbly submit that I read the counter affidavit filed by the vacate petitioners herein and I beg to deny each and every allegation made therein. I also deny the truth and tenability of the averments of the counter affidavit and I put the respondents strict proof of all the allegations except which are specifically admitted hereunder.

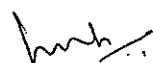
3. I submit that there are no valid and just grounds made out by the respondent to vacate the stay granted by this Hon'ble court on 27-11-2009. At the very outset on reading of the counter affidavit it would clinchingly fortifies and substantiate my contentions raised in the writ affidavit filed in support of writ petition. I crave leave of this Hon'ble Court to read the writ affidavit as part and parcel of this affidavit.

4. It is humbly submitted so far as paras 1 to 4 of counter affidavit filed by the respondent No.2 are concerned, and the paras 1 to 6 of counter affidavit of respondents 1 and 3 concerned, they are all statutory Rules and no reply need be filed.

5. It is not true to allege that as stated in the para 5 of counter affidavit of respondent No.2, that the 4th respondent has not made any remarks to its letter dt. 20-8-2009. On reading of para 5 of counter affidavit, it indicates that the 2nd respondent is under mistaken impression that as per Rule 7 of the I.V.C., Rules, 1985 say that any person is having any objection in respect of address, has to make application to correct the address by giving claim or objection. But on reading of Rule 7, says that claim and objection are with regard to only for inclusion and deletion of a

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name in the electoral roll and from the electoral roll respectively, but not for change of address and accordingly no registered veterinarian has submitted claim or objection to the Registrar of 4th respondent with regard to their change of address. The relevant Rule i.e., Rule 8 (1) states that " The Secretary shall, after disposing of the claim or objection Under Rule 7, prepare a list of amendment to carry out the decision under the said Rule and to carry out any clerical or printing error or other in accuracies subsequently discovered or brought to his notice in the Roll". Admittedly, in the instant case, the 4th respondent, vide its letter No. 706/T/2009, dt. 20-8-2009 brought to the notice of the respondent No. 2 for updation of addresses of Registered veterinarians of the State. Admittedly even according to the counter affidavit of the 2nd respondent, they did not update the addresses of the registered veterinarians in the electoral roll contrary to the Rule 8(1) of I.V.C., Rules, 1985. The Rule 8 comes into operation only after the exercise has been done under Rule 7. The change of address of any veterinarians has to be done only after the process under Rule 7 is completed, before publishing the final electoral roll. Admittedly, no such exercise has been done by the 2nd respondent, before publishing the final electoral roll. Admittedly, the 4th respondent, sent its remarks, along with the C.D., for updation of change of addresses of several registered veterinarians to effect the change of address in the final electoral roll. Curiously, to the reasons best known to the 2nd respondent, even though it received, the remarks along with the C.D., for change of addresses, it is stated that no remarks were sent by the 4th respondent. It is a pure violation of Rule 8(1) of I.V.C., Rules, 1985 by the 2nd respondent, by which few thousands of registered veterinarians have not got their ballot papers since they appear to have sent those ballot papers to their wrong addresses. Being a public authority, the 2nd respondent, should have acted in a fare and transparent manner, by sending the ballot papers to the present addresses of the registered veterinarians as per the information furnished by the 4th respondent. In fact, the 4th respondent, in his letter dt. 20-8-09, in a categorical and unambiguous terms stated that



" However, it is observed from the Draft Electoral Rolls, that the addresses of several registered veterinarians are to be updated"

As such, a C.D., containing the Electoral Roll Sl. Nos. I.V.P.R.Nos., Page Nos., APVC Regd. Nos., Name and the latest addresses of the registered veterinarians is furnished for updating the Rolls, so that the registered veterinarians can be reached promptly"

6. In reply to para 6 of the counter of the 2nd respondent, it is not true to allege that they have taken due care while preparing electoral rolls based on the information and the records available in the office as sent by the State veterinary council, in accordance with the I.V.C., Rules. Even as per their own admissions, that they have not updated the changed addresses as per the information furnished by the 4th respondent through C.D., with a covering letter and stating that the 4th respondent, has not sent any remarks in this regard, which is totally in flagrant violation of Rules. The counter affidavit of the respondents 1 and 3 fortifies my contentions about the preparation of final electoral roll. In the counter affidavit filed by the respondents 1 and 3 at para xvi it is stated that;

"In view of the large number of complaints about non-receipt of ballot papers and incorrect addresses, the allegations against the Veterinary Council of India may not be entirely baseless. Therefore, the Veterinary Council of India needs to perform their task more diligently. The matter has engaged attention at highest level and reforms have been suggested for conduct of elections in future and plugging the loopholes on 28-11-2009".

The 3rd respondent being the Returning Officer, having found that so many irregularities are taken place, while preparing the final voters list, should have given necessary directions for taking steps to rectify those irregularities by sending the ballot papers to the correct addresses as per the information furnished by the 4th respondent. Instead of doing so, the 3rd respondent, has given solution to the respondent NO.2, to adhere to the Rules prescribed under the statutory rules in future. Instead of doing so, the respondents 1 and 3, it is stated that the highest authority is taking steps to plugging the loop holes and irregularities including electoral process on 28-11-09. I am not aware as to what happened on 28-11-09 since the counter is silent.



7. It is submitted that the para 7 of the counter affidavit is nothing but repetition of para 5 as such no separate reply need to be given.

8. In reply to para 8 of the affidavit, to the effect that a duplicate ballot paper can be obtained from the Returning Officer under Rule 16(4) without considering the fact that even if registered veterinarian applies for a duplicate ballot paper, the same will be sending to the old address but not to the correct present address, since the old address already published final voters list by that time.

9. It is also not true to allege in para 10 that I did not follow the Rule under Section 28 of the I.V.C., Act, 1984, for the reason that as per which, a registered veterinarian should inform his change of address within 90 days. It is not out of place to submit that here that the 3rd respondent being the Returning Officer has not complied with the Rule 13(2) of I.V.C., Rules, as per which the Returning Officer, shall examine the nomination papers and decide all questions which may arise as to the validity of any nomination and his decision thereon shall be final. In the instant case, out of 64 nominations, 17 nominations are liable to be rejected on the ground that the addresses shown in the final electoral roll are different from the addresses shown in the approved nomination papers as per the Official Gazette dt. 27-10-2009. I am herewith furnishing the list of 17 candidates whose addresses are shown in the final electoral roll and the addresses published in the Gazette of India. By allowing those 17 members, contrary to Sec.28 of I.V.C., Act, 1984 and Rule 13 (2) of I.V.C., Rules-1985, the 3rd respondent has committed a grave mistake and caused total injustice to the Electoral process. If really, the Section 28 of the I.V.C.Act, 1984, is sought to be implemented strictly as stated in the counter affidavit, the 3rd respondent, should not have approved the nominations of those 17 members in violation of Sec. 28 of the I.V.C., Act, 1984 and Rule 13(2) of I.V.C.,Rules, 1985 there under.

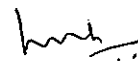
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10. It is humbly submitted that the counter affidavit of the respondents 1 and 3 is very much silent about the letter dt.17-11-2009 by the 4th respondent with the 1st respondent, bringing to his notice that about 90% of the registered veterinarians have not received ballot papers till date giving rise to suspicion of the rigging of the electoral process and the President himself did not receive the ballot papers till date. The silence on the part of respondents 1 and 3 in their counter affidavit gives rise any amount of suspicion of the rigging of the electoral process as expressed by the 4th respondent. It is no doubt true that as stated in the para 10 of the counter affidavit of the respondents 1 and 3 that no election can be invalidated for the reason of non receipt of ballot paper by a voter as per under Rule 16(6). But in the instant case, admittedly thousands of voters did not receive the ballot papers for no fault of them. Because of the irregularities are being committed by the respondents 1 to 3 knowingly or unknowingly the electoral process is made as a part.

11. It is pertinent to submit here that in the counter affidavit filed by the respondents 1 and 3, it is silent about the verification of signatures as per Rule 18(3) of I.V.C. Rules, which states that

" After satisfying himself that the electors have affixed their signatures to the declaration papers, the Returning Officer, shall keep all the declaration papers in safe custody pending disposal under Rule 1".

Even though it is specifically averred in my writ affidavit about the accountability on the part of the 3rd respondent, while receiving the undelivered ballot papers to the registered veterinarians through out the country, my apprehension can be seen the way in which the 3rd respondent received the ballot papers on four different days i.e., 01-11-09 to 26-11-2009 the 3rd respondent received approximately 2000 ballot papers; on 27-11-09; 5 thousand ballot papers; on 28-11-2009 being the public holiday, the 3rd respondent received 1000 ballot papers through courier, on



29-11-2009, being public holiday no ballot is received and on 30-11-2009, the 3rd respondent received 12,000 ballot papers and most of the addresses given in those ballot papers are posted at New Delhi. Though the duty casts upon the 3rd respondent to verify the declaration papers, the signatures of the respective registered veterinarians i.e., signatures on declaration papers, which is only source to identify of the genuineness of the electors. It is not out of place to submit that there is no mechanism is available for the 3rd respondent, to verify the genuineness of the ballot papers for the reason that no specimen signatures of respective electors are available with the 3rd respondent to compare those two signatures to come to a conclusion that the signature on the declaration papers is genuine or not. Admittedly, every election for V.C.I., members, no such exercise has been done till date.

12. It is humbly submitted that the respondents have not made out any case to vacate the interim order granted by this Hon'ble court. Hence the writ petition is to be allowed.

For the reasons mentioned above it is therefore humbly prayed that the Hon'ble Court may be pleased to allow the Writ Petition in the interest of justice and to pass such order or orders as this Hon'ble Court deems fit and proper.

Solemnly affirmed at Hyderabad
and signed on this 14th day of December, 2009.


Deponent

Before me,

Advocate, Hyderabad.

VERIFICATION

I, Dr. K.Krishna Kumar S/o K.Nagi Reddy, Hindu, aged 43 years, Occ: Veterinary Doctor, Department of Animal Husbandry, A.P., Hyderabad, presently working at Animal Quarantine & Certification Services, Rajiv Gandhi International Airport, Shamshabad, Hyderabad, do hereby verify that the contents in paras 1 to 12 are true to the best of my knowledge and belief. Hence verified.

Advocate.


Deponent.

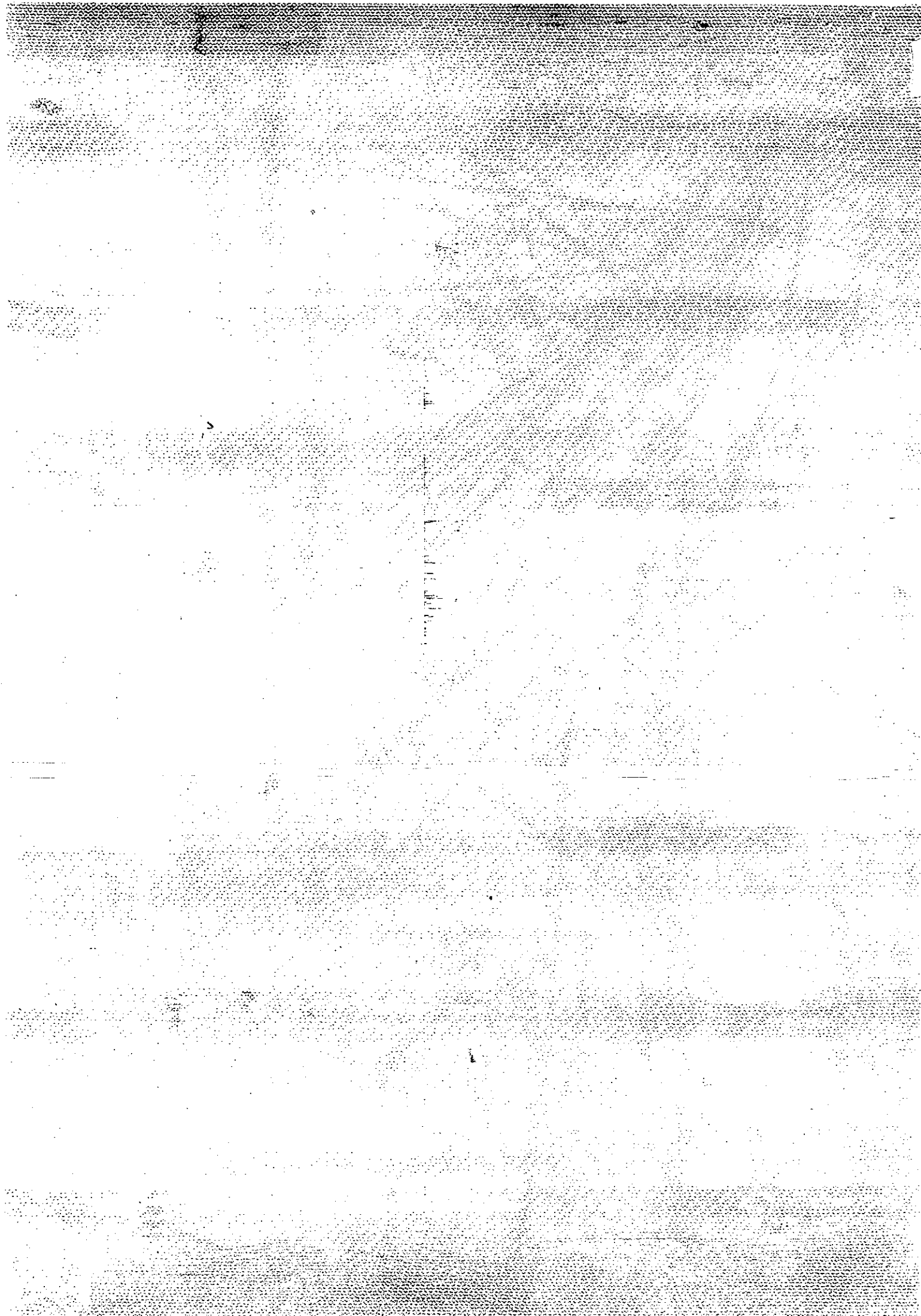
HYDERABAD DISTRICT

HIGH COURT: HYDERABAD

W.P. NO - 25775/09

COMMON REPLY AFFIDAVIT
FILED BY THE PETITIONER

SRI - MR - CH. DHANAMJAYA (164)
COUNSELLOR FOR PETITIONER



LIST OF ADDITIONAL EXHIBITS

Ex.P.7: The Indian Veterinary Act, 1984 published in the Gazette of India Extraordinary-I, dt. 21-8-1984. — 39-60

Ex.P.8: I.V.C., Rules, 1985 published in the Gazette of India Extraordinary-I, dt. 04-05-1985. — 61-66

Ex.P.9: Letter No.706/T/2009, dt. 20-8-2009 of Registrar, A.P. Veterinary Council. — 67-

Ex.P.10: List of 17 members whose addresses are mentioned in Notification dt. 27-10-2009 in the Gazette of India and also in Final Electoral Roll 2009, published by V.C.I., on 28-8-2009. — 68-88