

**IN THE HIGH COURT OF JUDICATAURE OF ANDHRA
PRADESH AT HYDERABAD**

MP No. OF 2010

IN

W.P. No. 27725 OF 2010

Between

Secretary, Department of Animal Husbandry,
Dairying & Fisheries,
Government of India and anr. ... Petitioners/
Respondents.

And

Dr. K. Krishna Kumar S/o K. Nagi Reddy,
Hindu, aged 43 years, Occ: Veterinary Doctor,
Dept. of Animal Husbandry, A.P. presently working
as Animal Quarantine & Certification Services,
Rajiv Gandhi International Air Port, Shamshabad,
Hyderabad.
 ...Respondent/Petitioner

**AFFIDAVIT OF THE RESPONDENTS 1 & 2 CONTAINING
DETAILED STATEMENT IN COMPLAINE WITH THE
ORDER OF THE HON'BLE HIGH COURT**

I, A.K. Barua, S/o Shri K.L.Barua, aged about 59 years, resident of
New Delhi, do hereby solemnly affirm on oath and submit as follows:

1. That I am working as Director in the Department of Animal
Husbandry, Dairying and Fisheries, Ministry of Agriculture, New Delhi,
and also having been appointed as the Returning Officer for the election
of members of the Veterinary Council of India (VCI) am well acquainted

with the facts of the case and am, therefore, in a position to depose about the same.

2. That in the hearing held in the matter on 19.11.2010 the Hon'ble High Court passed the following Order:

“In terms of Rule 18 of Veterinary Council Rules, 1985 the signature contained on this Form III has got to be verified by the Returning Officer. For this purpose it is open to the Returning Officer – 2nd respondent herein to obtain all such records, which are available with the Veterinary Council of India and also the respective Veterinary State Councils. It is also equally open to the 2nd respondent to secure all such information, which is necessary and appropriate by him through internet/web. However, the 2nd respondent shall not destroy the declaration papers in Form III filed by all the electors. It is open to the petitioner or for that matter any other elector to be present at the time of verification of the declaration paper contained in Form III at the time of counting of the votes. Any objection raised by the new voter, shall be scrutinized and appropriately dealt with. Let a detailed statement be filed in the matter within a period of four weeks. It is needless to observe that the election to the Veterinary Council of India, will abide by the result in this writ petition.”

3. That as per an earlier Order dated 29th October, 2010 of the Hon'ble High Court of Andhra Pradesh at Hyderabad in Contempt Case No. 1087 of 2010, election process for election of 11 members of the VCI was required to be completed within 30 days that is before 29th November, 2010.

4. That in pursuance of the said Order of the Hon'ble High Court the 2nd respondent in his capacity as the Returning Officer, VCI Election, 2009 issued a Notification dated 3rd November, 2010 in the Gazette of India (Extraordinary) in partial modification to the Notification No. S.O. 2587 (E) dated 12th October, 2009 appointing the following dates for holding the elections and counting of votes:

- (i) Date of polling by the persons enrolled in the Electoral Roll of the Registered Veterinary Practitioners of Andhra Pradesh : On Thursday, the 25th November, 2010 at 5.00 PM.
- (ii) Date, Time and Place for counting of votes cast by the persons enrolled in the Indian Veterinary Practitioners Register of the Veterinary Council of India. : On Friday, the 26th November, 2010 at 10.00 AM onwards and on or before 28th November, 2010 at Animal Quarantine and Certification Service Station, Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture, Kapashera Crossing, Near Kapashera Police Station, Old Delhi-Gurgaon Road, New Delhi-110037.

4. That the relevant rules of the Indian Veterinary Council Rules, 1985 are as under:

Rule 17: Opening of the cover –

- (1) The Returning Officer shall open the outer envelopes immediately after the appointed time for closer of voting on the date of fixed for the poll at the place to which the envelopes are addressed to him.
- (2) Any candidate may be present in person or may sent a representative duly authorized by him in writing to be present at the time when the outer envelopes are opened.

Rule 18: Rejection of voting paper covers:-

- (1) A voting paper cover shall be rejected by the Returning Officer if –

- (a) the outer envelope contains no declaration paper outside the voting paper cover, or
 - (b) the declaration paper is not the one sent by the Returning Officer or
 - (c) the declaration paper is not signed by the elector or
 - (d) the voting paper is placed outside the voting paper cover, or
 - (e) more than one declaration paper or voting paper cover have been enclosed in one and the same outer envelope.
- (2) In each case of rejection the word 'rejected' shall be endorsed on the voting paper cover and the declaration paper. The reasons for rejection shall also be recorded in brief, on voting paper cover.
- (3) 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.

5. That it is thus evident that in terms of the Indian Veterinary Council Rules, 1985 and also the Order dated 29th October, 2010 of the Hon'ble High Court of Andhra Pradesh at Hyderabad in Contempt Case No. 1087 of 2010, the 2nd respondent that is the Returning Officer had barely 17 hours to complete the process laid down in Rules 17 and 18 of the Indian Veterinary Council Rules, 1985.

6. That, therefore, immediately after the appointed time for closure of voting for fresh polling by the persons enrolled in the Electoral Roll of

the Registered Veterinary Practitioners of Andhra Pradesh the 17324 outer envelopes (16801 envelopes received till 30.11.2009 and 523 envelopes received from 16.11.2010 till 5 p.m. of 25.11.2010) were opened on the direction and supervision of the Returning Officer in the presence of the candidates who had been informed beforehand and 1294 voting paper covers alongwith the Declaration Forms which had been received from the Registered Veterinary Practitioners of Andhra Pradesh prior to the fresh polling, were segregated and cancelled in compliance with the directions of the Hon'ble High Court of Andhra Pradesh at Hyderabad in W.P. No. 25775 of 2009. 710 voting paper covers alongwith their respective Declaration Forms were rejected under Rule 18 of the Indian Veterinary Council Rules, 1985. These included the voting paper covers where the Declaration Forms which did not identify the State in which the Electors were registered. While scrutinising the Declaration Forms all possible care was taken to ensure that these had been signed and filled properly. The Declaration Forms which were not properly filled or which did not contain signatures were promptly rejected. Objections were received from two candidates against allowing voting paper covers for counting on the grounds that (a) the Declaration Forms did not contain the page numbers in the Indian Veterinary Practitioners Register and (b) the signature of the electors attested on the Declaration Forms were fake and, therefore, these signature should be compared with the specimen signatures of the elector for correctness. These objections were rejected for the reasons that (a) mentioning of IVPR page Number was not mandatory and (b) the candidates who objected to the signatures could not produce any evidence in support of their allegations. 15320 voting paper covers, other than those rejected and

segregated as stated above were opened on 26th and 27th of November, 2010 for scrutiny and counting of votes in accordance with the provisions of Rule 19 of Indian Veterinary Council Rules, 1985.

7. That based on the counting of valid votes cast by the Electors a list of the candidates was drawn up in the order of highest votes polled by each.

8. That accordingly, the following candidates were declared elected as Members of the Veterinary Council of India:

S. No. in the voting paper	Name of Candidate
2	Akhilesh Kamal
48	Ravinder Kumar
37	Narayan Mohanty (Lt. Gen)
23	Ingale Sandeep Vinayakrao
12	Bhagwan Ashok Satale
13	Bhawani Singh Rathore
40	Pardeep Lamba
47	Ravinder Chaudhary
6	Amarjit Singh Makkar
24	Islamuddin
43	R. Ramesh

9. The successful candidates have been informed under Rule 20(4) of the Indian Veterinary Council Rules, 1985 and also that the result of the Election is subject to the final Orders of the High Court of Andhra Pradesh at Hyderabad in WA MP No. 303 of 2010 in WA of 120 of 2010 in the matter of Veterinary Council of India vs Dr. K. Krishna Kumar and ors. and in WP No. 27725 of 2010 in the matter of Dr. K. Krishna Kumar vs Union of India and anr.

10. The result of the election has also been intimated to the Central Government under Rule 22 of the Indian Veterinary Council Rules, 1985.

11. That it is further submitted that each of the electors to whom the voting papers were despatched were supplied with a 'Letter of Intimation' in the prescribed form (Form IV) requesting him/her, inter-alia, to-

(a) fill up and sign the declaration paper (Form III);

(b) mark his/her vote in the column provided for the purpose in the voting paper (Form II) as directed on the voting paper;

(c) enclose the voting paper in the smaller cover and stick it up; and

(d) enclose the smaller cover and declaration paper in the outer envelope which is larger and on which the address of the Returning Officer was already printed and return the same to the Returning Officer by post at his/her cost or deliver it in person in the office of the Returning Officer so as to reach him not later than the date mentioned therein.

12. That, by following the rules laid down in the Indian Veterinary Council Rules, 1985, the voting papers had been despatched to all the persons enrolled in the Indian Veterinary Practitioners Register individually and not in bulk to a single addressee. The envelopes containing the voting papers were received either by post or in person or by courier. Therefore, there was no reason for the Central Government or the Returning Officer to suspect that the voting papers despatched to the individual electors had been usurped at any stage. There was no reason for the Central Government or the Returning Officer to suspect any rigging in the election process. In the absence to any evidence to the contrary, the presumption was, therefore, in favour of the signature being genuine unless the same was proved otherwise. Thus the onus to prove that the signature was not genuine should rest on the one who alleged it. It is well settled that the onus to prove a fact lies on the one who alleges it.

13. That there are about 53000 electors listed in the electoral roll of Registered Veterinary Practitioners in the Country and even though 17324 electors have exercised their voting rights there are about 17324 signatures on the Declaration Paper (Form-III). As per the Orders of the Hon'ble court the signatures contained on Form III were got to be verified by the Returning Officer in terms of Rule 18 of Veterinary Council Rules, 1985 and further that for this purpose it was open to the Returning Officer – 2nd respondent herein to obtain all such records, which were available with the Veterinary Council of India and also the respective Veterinary State Councils and also that it was also equally

open to the 2nd respondent to secure all such information, which was necessary and appropriate by him through internet/web.

14. That as already submitted before, in pursuance of the Order dated 29th October, 2010 of the Hon'ble High Court of Andhra Pradesh at Hyderabad in Contempt Case No. 1087 of 2010, election process for election of 11 members of the VCI was required to be completed within 30 days that is before 29th November, 2010. Accordingly, the date of polling by the persons enrolled in the Electoral Roll of the Registered Veterinary Practitioners of Andhra Pradesh was scheduled to be completed by 5.00 PM on Thursday, the 25th November, 2010 and the counting of votes cast by the persons enrolled in the Indian Veterinary Practitioners Register of the Veterinary Council of India was scheduled to commence on Friday, the 26th November, 2010 at 10.00 AM onwards which was to be completed before 28th November, 2010. Therefore, the Returning Officer had only 17 hours from 5.30 p.m. of 25th November, 2010 to 10.00 a.m. of 26th November, 2010 to complete the task of verification of the signatures of about 17324 signatures on the Declaration Paper (Form-III). Therefore, keeping in view the time limit fixed by this Hon'ble High Court, the 2nd respondent in his capacity as the Returning Officer, VCI Election, 2009 in his best judgement did the verification of the Declaration Forms in the manner stated at paragraph 6 above and that this was the only manner in which the verification of signatures on the Declaration Forms could have been done in the given circumstances. That this was the only method by which the Returning Officer could have satisfied himself that the electors had affixed their

signatures to the declaration papers as required under Rule 18(3) of the Indian Veterinary Council Rules, 1985.

15. That it is understood that the State Veterinary Councils do not maintain any register which contains signatures of the registered veterinary practitioners. The signatures of the Registered Veterinary Practitioners may be available only in their respective files which are maintained by the respective State Veterinary Councils. If the 2nd respondent as the Returning Officer had to embark upon an exercise to ascertain the genuineness of the signatures on the declaration papers as prayed for in the writ petition, one of the option before him could have been to obtain the specimen signatures from each of the 53000 electors and to do the verification of signatures by comparing with their specimens which was not humanly possible within the time frame within which the election process was required to be completed. Therefore, to expect the Returning Officer to carry out such an exercise within 17 hours non-stop from 5.30 p.m. of 25th November, 2010 to 10.00 a.m. of 26th November, 2010 was to ask him to do impossibility.

15. That the second option before the 2nd respondent as the Returning Officer was in the first step to segregate all the Declaration Papers alongwith their respective envelopes containing the voting papers, State/UT-wise. This exercise would itself have taken at least 5 working days. The next step for the Returning Officer would have been to request the Secretary of the Veterinary Council of each State) to appear before the Returning Officer or to depute their authorised representatives alongwith the files/records containing signatures of all the Veterinary Practitioners who are enrolled in the electoral roll of that State/groups of

States/UTs to verify and authenticate the signatures on the Declaration papers. This process would have taken a minimum 3 months, if at least 5 Assistant Returning Officers are deployed full time for this job. Sufficient notice would have to be given to all State Veterinary Councils to depute their respective Secretaries/authorized representatives along with complete records to this Department. Counting of ballot paper could have been started only after this exercise was completed which would have taken another 3 days.

16. Therefore, a minimum of 4 months would have been required to complete the entire election process, in case, the Returning Officer was required to ascertain the genuineness of the signatures of the electors on the Declaration Papers. The probable ACTIVITY – TIME CHART for the entire exercise is drawn up as under:

Sl. No.	Activity	Time
1.	Segregation of all the Declaration Papers alongwith their respective envelopes containing the voting papers, State/UT-wise	1 week
2.	Issue of Notice to the Veterinary Councils of 28 States & 7 UTs	1 week
3.	Preparatory arrangement by the State/UTs Veterinary Councils	2 weeks

4.	Completion of the work relating to verifying the genuineness of the signatures of each elector who sent the envelopes.	70 working days (12 weeks)
5.	Counting of votes	3 days
	Total=	16 weeks & 3 days

17. That, therefore, in pursuance of the directions of this Hon'ble Court the 2nd respondent in his capacity as the Returning Officer, VCI Election, 2009, took all possible measures to verify the Declaration forms including the signatures affixed thereon in his best judgment and declared the result of the Election thereby completing the election process within the time frame fixed by this Hon'ble Court.

18. In the above circumstances, it is prayed that this Hon'ble Court may be pleased to dismiss the WP No. 27725 of 2010 in the interest of justice.


DEPONENT

Sworn & signed in my presence
on the 30 th day of December, 2010

VERIFICATION

I, A.K. Barua, S/o Shri K.L. Barua, aged about 59 years, resident of New Delhi, do hereby declare that the contents mentioned in the above

paragraphs are true and correct to the best of my knowledge, information and belief.

Hence, verified on this the 20th day of December, 2010 at

New Delhi.


DEPONENT

COPY to
CH. Shan Jey



HYDERABAD DIST

HIGH COURT: HYDERABAD

W.P. No. 27725 OF 2010

R/K
22/03/12

Affidavit filed by the Respondent No.2

Ch. Samson Babu (1295)
Advocate

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