

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

C.C.NO. 1087 OF 2010

IN

W.P. No. 25775 OF 2009

Between:-

Dr. K. Krishna Kumar

...Petitioner

And

Shri Rudhra Gangadharan,
Secretary, Department of Animal Husbandry,
Dairying & Fisheries, Government of India,
and others

...Respondents

COUNTER AFFIDAVIT BY THE 1ST RESPONDENT

I, Rudhra Gangadharan, S/o Shri P. R. Gangadharan, aged about 58 years, resident of New Delhi, now at Chennai do hereby solemnly affirm on oath and submit as follows:

1. I am working as Secretary to the Government of India in the Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture, New Delhi, and, as such, I am well acquainted with the facts of the case and am, therefore, in a position to depose about the same.

2. At the outset it is humbly submitted that I have utmost respect for the Courts and the orders passed by the Hon'ble Courts and would never disobey the directions or orders passed by the Hon'ble Court, much less flout orders passed in WP No. 25775 of 2009.

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Corrections:


Attestor

Dr. Rajiv Khosla
Regional Officer (SR)
Animal Quarantine & Certification Services
(Dept. of A.H.D.&F). Ministry of Agriculture


Deponent

3. Brief facts of the case:


3.1 The Central Government issued a Gazette Notification dated 19th May, 2009 under the provisions of Rule 3 of the Indian Veterinary Council Rules, 1985 calling upon persons enrolled in the Indian Veterinary Practitioners Register (IVPR) to elect 11 members from amongst themselves for the Veterinary Council of India (VCI) under Section 3 (3) (g) of the Act.

3.2 Rule 4 of the Indian Veterinary Council Rules, 1985 provides that the Secretary to the Veterinary Council of India shall prepare the roll, which shall contain the name of every person whose names are entered in the register. Rules 5, 6 and 7 of the said Rules relate to publication of the roll in draft, period of lodging claims and objections, form of claim and objection and the manner of their disposal. Final publication of the roll has been prescribed in Rule 8 of the said Rules and as per Rule 8(4) a copy of the roll together with the list of amendments published under sub-rule (2) shall be sent by Secretary, VCI to the Central Government.

3.3 Accordingly, a copy of the electoral roll was received by this Department from the Secretary, Veterinary Council of India on 31st August, 2009.

3.4 As provided in Rule 10 of the Indian Veterinary Council Rules, 1985, the Returning Officer published a Gazette Notification dated 12th October, 2009 giving the schedule for election and inviting nomination. The last date for receipt of the voting paper was fixed for 30th November, 2009 and the counting of the votes was scheduled for 1st December, 2009.

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3.5 At this Juncture, W.P. No. 25775 of 2009 was filed by the Petitioner herein and the said Writ Petition was allowed by this Hon'ble Court giving directions to the 2nd Respondent, which are as follows:-

"Hence, the Writ Petition is allowed and the 2nd Respondent is directed to fix another date of polling for the Veterinarians, who are the members of the 4th Respondent and send the ballot papers to the addresses furnished in the Compact Disk, forwarded by the 4th Respondent. It is needless to mention that the Ballot papers sent by it to such addresses at an earlier occasion shall stand cancelled. Counting of the votes shall take place after completion of the polling as indicated above."

It is submitted that a Writ Appeal No. 74 of 2010 was preferred by the Government of India in this Hon'ble Court, which was dismissed on 15.02.2010. The Writ Appeal was dismissed, observing that since the Government was an Appellate Authority in the matter of elections U/s 4(2) of the Indian Veterinary Council Act, 1984, it could not be an aggrieved party to prefer the Writ Appeal. As far as the Union of India is concerned, the said orders have become final. It is respectfully submitted that Writ Appeal No. 120/2010 filed by the 2nd respondent in the writ petition No. 25775/2009 also came up for hearing on 15-2-2010 and the Division Bench observed that there respondent No.2 was bound to implement the order in the writ petition.

4. It is submitted that in the meanwhile, the Government addressed a letter dated 12-1-2010 to Veterinary Council of India, informing them of the expiry period of the tenure of the President and the Vice President by efflux of time and

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Dr. Rajiv Khosla
Regional Officer (SR)
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Deponent

further informed the Veterinary Council of India that the President and the Vice President ceased to hold office, in view of the Provisions of Section 5 (1) of the Indian Veterinary Council Act.

5. I further submit that it is the duty of the Veterinary Council of India to take further steps for expediting the election process by preparing the electoral rolls so far as veterinarians of Andhra Pradesh are concerned. However, the VCI has sent the complete data as required, only by 27.09.2010.

6. As the matter stood thus, it is submitted that, initially, the VCI has addressed a letter to the 1st Respondent herein on 13.01.2010 seeking advice on the following:

- (1) In what manner shall the administrative and financial powers which are vested with the President of the Council under the Act and Regulations for carrying out the mandated activities of the Council be discharged.
- (2) Whether a meeting of the present Council could be convened to elect the President and the Vice-President of the Council for the remainder of the term (i.e. till the Council is reconstituted by the Central Government) so that functioning of the Council is not affected adversely.

Thereafter, the Veterinary Council of India sent further reminders on 08.02.2010 and on 10.03.2010. In the reminder letters, the Veterinary Council of India expressed difficulties in meeting out day to day administration in the absence of the President and the Vice President. It further stated that the entire

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Attestor

Dr. Rajiv Khosla
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Animal Quarantine & Certification Services
(Dept. of A.H.D. & F), Ministry of Agriculture
Govt. of India, Chennai - 600 100.


Deponent

financial transactions had come to a stand still and it was facing difficulties and equally conduct of examination for B.V.Sc. courses were also being adversely affected. That in the above circumstances, the 1st Respondent referred the matter on file to Ministry of Law & Justice on 08-02-2010 and again on 06-04-2010. The Ministry of Law & Justice vide their Note dated 16.04.2010 in reference No FTS/1681/2010-Adv.B, gave the following advice:

"Keeping in view the views of the Department and various Provisions of IVC Act, we are of the opinion that as per the proviso of the Section 5 (2) of the IVC Act, 'the administrative Department may take steps to elect the President and Vice President of the Council as the manner provided in Regulation until his successor shall have duly elected whichever is longer to conduct the day today functioning of the Veterinary Council of India till the adjudication of the Court cases pending before the Courts on the subject.'

The 1st Respondent, in the above circumstances, addressed a letter to the 2nd Respondent VCI on 26.04.2010 informing them of the above opinion rendered by the Ministry of Law & Justice ~~informed the 2nd Respondent~~. The circumstances as above would indicate that I have acted bonafide in regard to the subject matter and have not acted in disobedience of the order passed in the writ petition.

7. In the above circumstances, it is prayed that this Hon'ble Court may be pleased to dismiss the C.C. No. 1087 of 2010 in WP No. 25775 of 2009 in so far as the first Respondent is concerned, in the interest of justice.



Deponent

Sworn & signed before me on this the 27th day of October, 2010 at Chennai.

... Before me...


Attestor

Dr. Rajiv Khosla
Regional Officer (SR)
Animal Quarantine & Certification Services
(Dept. of A.H.D. & F), Ministry of Agriculture
Govt. of India, Chennai - 600 100.

Mundell
has no
role play
with regard
to Finance
after
Secretary
Competent
as per
of Govt

To
Sd/- Ch. Dhanayyalu

DISTRICT: HYDERABAD

HIGH COURT OF A.P., HYDERABAD

Contempt Case No. 1087/2010

Recon
28/10

COUNTER AFFIDAVIT OF THE
1ST RESPONDENT

ADVOCATE GENERAL (6666)
ANDHRA PRADESH
COUNSEL FOR THE RESPONDNET

IN THE HIGH COURT OF JUDICATAURE OF ANDHRA PRADESH AT
HYDERABAD

Contempt Application No. OF 2010

IN

C.C.NO. 1087 OF 2010

IN

W.P. No. 25775 OF 2009

Between

Shri Rudhra Gangadharan,
Secretary, Department of Animal Husbandry,
Dairying & Fisheries,
Government of India

... Petitioner/ 1st Respondent.

And

1. 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


2. Dr. Anup Bhaumik S/o late Dr.A.M.Bhaumik,
Aged about 48 years, Secretary,
Veterinary Council of India, A-Wing, II Floor, August
Kranti Bhavan, Bhikajis Cama Palace, New Delhi.

3. Sri G. Subrahmani S/o S. Gopalakrishnan,
Returning Officer, Veterinary Council of India Elections, 2009
R/o H.No. YZ-31, Sarojini Nagar,
New Delhi – 110 023.

... Respondents/
Respondents 2 &3

(Respondents 2 and 3 are not necessary parties
to this petition)

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Corrections:


Attestor
Dr. Rajiv Khosla
Regional Officer (SR)
Animal Quarantine & Certification Services
(Dept. of A.H.D.&F), Ministry of Agriculture
Govt. of India, Chennai - 600 100.


Deponent

AFFIDAVIT OF THE PETITIONER


I, Rudhra Gangadharan, S/o Shri P. R. Gangadharan, aged about 58 years, resident of New Delhi, now at Chennai tour do hereby solemnly affirm on oath and submit as follows:-

1. I am working as Secretary to the Government of India in the Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture, New Delhi, and, as such, I am well acquainted with the facts of the case and am, therefore, in a position to depose about the same.

2. At the outset it is humbly submitted that I have utmost respect for the Courts and the orders passed by the Hon'ble Courts and I never had any intention to disobey the directions of the orders passed by the Hon'ble Court, much less flouting of orders passed in WP No. 25775 of 2009.

3. I had been communicated by my counsel that orders were issued directing my presence on 29-10-2010, I humbly submit that on 29-10-2010, a High Level U.S. Delegation will be holding discussions with the Department of Animal Husbandry, Dairying and Fisheries regarding U.S. Market Access to India in respect of dairy, poultry, pork and pet food products, which was scheduled much earlier than the order passed on 25-10-2010 by this Honourable Court directing my appearance. In view of the same, I may not be able to present myself in this Honourable Court. My absence, therefore, is neither intentional nor deliberate. I undertake to be present in the Honourable Court on any other day as directed.

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Corrections:


Attestor
Dr. Rajiv Khosla
 Regional Officer (SR)
 Animal Quarantine & Certification Services
 (Dept. of A.H.D. & F), Ministry of Agriculture
 Govt. of India, Chennai - 600 100.


Deponent


4. In the circumstances stated above, I humbly pray that this Hon'ble Court may be pleased to dispense with my presence on 29-10-2010 in this Honourable Court in pursuance of the order dated 25-10-2010 in C.C. No. 1087/2010 and pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.



DEPONENT

Sworn and signed before me this the
27th day of October, 2010 at Chennai

... Before me...



Attestor Khosla
Regional Officer (SR)
Animal Quarantine & Certification Services
(Dept. of A.H.D. & F), Ministry of Agriculture
Govt. of India, Chennai - 600 100.

VERIFICATION STATEMENT


I, Rudhra Gangadharan, S/o Shri P. R. Gangadharan, aged about 58 years, resident of New Delhi, now at Chennai do hereby declare that the contents mentioned in the above paragraphs are true and correct to the best of my knowledge, information and belief and believed to be true and correct.

Hence, verified on this the 27th of October, 2010 at Chennai.

Counsel for Petitioner



Deponent



Attestor
Dr. Rajiv Khosla
Regional Officer (SR)
Animal Quarantine & Certification Services
(Dept. of A.H.D. & F), Ministry of Agriculture
Govt. of India, Chennai - 600 100.

MEMORANDUM OF CONTEMPT APPLICATION

(Under Sec. 151 CPC R/w 18 of CC Rules)

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

Contempt Application No. OF 2010

IN

C.C.NO. 1087 OF 2010

IN

W.P. No. 25775 OF 2009

Between

Shri Rudhra Gangadharan,
Secretary, Department of Animal Husbandry,
Dairying & Fisheries,
Government of India

... Petitioner/ 1st Respondent.

And

1. 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,
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2. Dr. Anup Bhaumik S/o late Dr.A.M.Bhaumik,
Aged about 48 years, Secretary,
Veterinary Council of India, A-Wing, II Floor, August
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Returning Officer, Veterinary Council of India Elections, 2009
R/o H.No. YZ-31, Sarojini Nagar,
New Delhi – 110 023.

... Respondents/
Respondents 2 &3

(Respondents 2 and 3 are not necessary parties
to this petition)

::2::

For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Honourable Court may be pleased to dispense with presence of the petitioner on 29-10-2010 in this Honourable Court in pursuance of the order dated 25-10-2010 in C.C. No. 1087/2010 and pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.

Hyderabad:
Dated: 27-10-2010

Counsel for the Petitioner

Copy to
Sachin Dhanyaya

DISTRICT: HYDERABAD

HIGH COURT OF A.P., HYDERABAD

Contempt Appln. No. /2010

In

Contempt Case No. 1087/2010

DISPENSE WITH PETITION

ADVOCATE GENERAL (6666)
ANDHRA PRADESH
COUNSEL FOR THE PETITIONER