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IN THE HIGH COURT OF JUDICATURE OF ANDHRA
PRADESH AT HYDERABAD

W.P.No. 25775 of 2009

Between:

Dr. K.Krishna Kumar, S/o. K.Nagi Reddy,
Aged 43 years, Occ: Veterinary Doctor,
Department of Animal Husbandry,
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 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,
Room No. 230, Krishi Bhavan, New Delhi.
4. A.P. State Veterinary Council,
Rep. by its President,
Shanti Nagar, Msab Tank, Hyderabad.

...Respondents

**COUNTER AFFIDAVIT FILED BY THE
RESPONDENT NO.2**

I, Dr.Anup Bhaumik, S/o.late Dr.A.M.Bhaumik, aged about 48
years, Occ:Secretary to Veterinary Council of India, A Wing, II Floor,
August Kranti Bhavan, Bhikaji Cama Place, New Delhi, having
temporarily come down to Hyderabad, do hereby solemnly affirm and
sincerely state on oath as follows:

1st page

corress..

//Attestor//

ASSISTANT DIRECTOR
Animal Husbandry (003 14-43)
Shantinagar, Hyderabad-23,

Deponent

Dr. Anup Bhaumik
Secretary
Veterinary Council of India

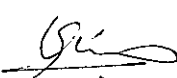
1. I am the Respondent No.2 herein and as such I am well acquainted with the facts of the case.

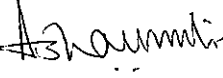
2. I have read the writ petition filed by the petitioner and after going through the same, I am replying the same on the basis of the information gathered from the official records which I believe to be true and correct. I have gone through the writ petition/writ affidavit, along with the material papers and hereby deny all the averments except those which are specifically admitted hereunder. The deponent to the writ affidavit may be put to strict proof of the averments made therein. I submit that the writ petitioner chose to make allegations against me without there being any truth, muchless warrant. I strongly refute all the allegations made against me in the affidavit filed in support of the above writ petition. The petitioner is put to strict proof of the same.

3. In reply to para 1 of the affidavit, is only a formal para and needs no reply.

4. In reply to para 2 to 4 of the affidavit, it is submitted that the conduct of election of 11 Members of the Veterinary Council of India, Central Government has framed Indian Veterinary Council Rules, 1985 as per provisions of Section 4 of the Indian Veterinary Council

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//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry (GOVT. VET. CLAS)
Shanthinagar, Hyderabad-23,

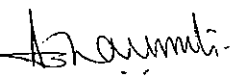

Deponent
Dr. Anup Kumar
Secretary
Veterinary Council of India

Act, 1984. The procedure to be followed by the Council in preparation of Electoral Roll has been prescribed under Rule 4 to 8 of the IVC Rules, 1985. The responsibility of the Council in the election process is limited to the preparation of the electoral roll consisting of the names of persons enrolled in the Indian Veterinary Practitioners' Register. The electoral roll once prepared is forwarded to Department of Animal Husbandry, Dairying & Fisheries, Ministry of Agriculture, Government of India for taking further necessary action in the election process. The petitioner is not a Member of Veterinary Council of India as the membership is already defined under Section 3 of the IVC Act, 1984. He is only a registered practitioner as per the information available to this Council. Further, the Andhra Pradesh Veterinary Council has been established by the Government of Andhra Pradesh as per provisions of Section 32 of the Indian Veterinary Council Act, 1984. The State Veterinary Council has been established for the purpose of maintenance of register of veterinary practitioners. As per provisions of Section 23(4) of the Indian Veterinary Council Act, 1984 each State Veterinary Council shall furnish to the Council 6 printed copies of the State Veterinary Register as soon as may be after the 1st day of April of each year and each State Veterinary Council shall inform the Council without delay of all additions to, and other amendments in, the State Veterinary register made from time to time.

3rd page

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 //Attestor//
 ASSISTANT DIRECTOR
 Animal Husbandry (COS 151/83)
 Shanthinagar, Hyderabad-28,


 Deponent
 Dr. Anup E. Dhabli
 Secretary
 Veterinary Council of India

The Member of State Veterinary Council will not automatically become a Member of Veterinary Council of India. The composition of the Council and State Veterinary Councils have been prescribed under Section 3(3) and Section 32(1) of the Indian Veterinary Council Act, 1984. Members of Veterinary Council of India is nominated/elected by the Central Government as per provisions of Section 3(3) of Indian Veterinary Council Act, 1984 whereas Member of State Councils are nominated/elected by the respective State Government/the practitioners registered with that State Council under SVC Rules. Rest of the averments made by the Petitioner relate with petitioner, hence no comments.

5. In reply to para 5 of the affidavit, it is submitted that the procedure for preparation of draft electoral roll and final electoral roll have been prescribed under Rule 4 to 8 of the Indian Veterinary Council Rules, 1985. The averments made are matters of record as per the notifications issued by the Central Government. The chronology of events followed by the Council is as under:-

The Central Government issued the first notification as per rule 3 of the IVC Rules calling upon the persons enrolled in the Register to elect the members in accordance of the provisions of these Rules on 19.5.2009. The Central Government vide their letter dated 5.6.2009 requested the VCI to prepare the Electoral Roll and submit to them.

4th page

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ASCI // Attestor // DIRECTOR
Animal Husbandry (1001-1-88)
Sachinpur, Hyderabad-50

Deponent

Dr. Anup L. Lunkik
Secretary
Veterinary Council of India

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(DR)

Accordingly, as per rule 4 of the IVC Rules, the Secretary of the Council prepared the draft Electoral Roll containing the names of every person whose name is entered in the Register.

As per rule 5 of the IVC Rules, the draft Electoral Roll was circulated to State/U.T Veterinary Councils on 21.7.2009 for its display for mandatory 15 days' period from 24.7.2009 to 7.8.2009 for inspection by the Registered Veterinary Practitioners vide Council's letter dated 21.7.2009.

The draft Electoral Roll was also displayed on the website of the Council namely www.vci.nic.in for wider publicity.

A public Notice about the publication of draft Electoral Roll was issued in the leading Newspapers in the State Capitals on 22.7.2009 for information of the registered Veterinary practitioners. Copy of the Notice published in the "Times of India" at Hyderabad edition is at Annexure ____.

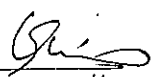
Through the above circular letter dated 21.7.2009, the State/UT Veterinary Councils were requested to forward all claims or objections received by the Registrar of the State Veterinary Council to this Council as per provisions of rule 7(4) of the IVC Rules before 21.08.2009 positively.

The Registrar, Andhra Pradesh State Veterinary Council (Respondent No. 4) vide letter No. 706/T/2009 dated 20.8.2009 informed to this Council that "no claims or objections were received in the office of the Registrar, A.P. Veterinary Council regarding the draft Electoral Rolls published by Veterinary Council of India for conduct of election of new members for Veterinary Council of India, within the stipulated time i.e. 15.8.2009." Copy of the letter of the Andhra Pradesh State Veterinary Council is at Annexure ____.

The State Council sent a CD of the whole State Veterinary Register of Andhra Pradesh containing names of all the registered Veterinary practitioners without any remarks of change of address. Hence the Council has not considered this CD for updating the address.

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//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry (GOBHALAS)
Shanthinagar, Hyderabad -23,


Deponent

Dr. Anup Chaturvik
Secretary
Veterinary Council of India


As the information provided by the Andhra Pradesh State Veterinary Council in the form of CD did not contain any remark regarding change of addresses of Registered Veterinary Practitioners in the State Veterinary Practitioners Register, the same was in contrary to rule 7 (4) of the IVC Rules, and hence was not considered for making amendments in the Electoral Roll.

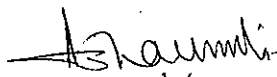
6. In reply to para. 6 of the affidavit, it is submitted that it is false and misleading. As stated above, due care has been observed in the preparation of electoral roll based on the information and records available in the office as sent by the State Veterinary Councils in accordance with IVC Rules. All the claims/objections received duly as per the IVC Rules have been considered for finalization of the Electoral Roll. As regards, the State of Gujarat, the claims/objections received through the Registrar of the State veterinary Council have been duly included in the final Electoral Roll. Hence, the statement made by the petitioner in respect of Gujarat State Veterinary Council are not correct.

7. In reply to para 7 of the affidavit, as stated in the foregoing paras, the Electoral Roll has been finalised after strictly following all the mandatory steps as prescribed in the IVC Rules framed by the Central Government. Hence, the averments made by the Petitioner are false and misleading. In spite of due publicity and official

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ASSISTANT DIRECTOR
Animal Husbandry (COS-ILMAS)
Swarajnagar, Hyderabad -23,


Deponent
Dr. Anup Kumar
Secretary
Veterinary Council of India


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correspondences with the State/UT Veterinary Councils, office of the VCI has not received any single claim or objections regarding change of address of the registered veterinary practitioners from the State of Andhra Pradesh as per provisions of the Rule 7 of the IVC Rules, 1985. Further, Rule 16(4) of the IVC Rules provides that – An elector who has not received the voting and other connected papers sent to him by post or who has lost them or in whose case the papers before their return to the Returning Officer have been in inadvertently spoilt may transmit a declaration in writing to that effect and request the Returning Officer not later than fifteen days before the date appointed for the poll to send him fresh papers and if the papers have been spoilt, the spoilt papers shall be returned to the Returning Officer who shall cancel them on receipt.

8. In reply to para 8 of the affidavit, it is submitted that it is misleading and fact stated at para 7 is again reiterated. As the role of the VCI is limited to finalization of the electoral Roll and its submission to the Central Government, it has no role to play in postponing the election process. The allegations made against the VCI of rigging the election process are imaginary, highly objectionable and needs to be withdrawn failing which the VCI shall have the right to take suitable actions as appropriate.

7th page

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 //Attestor//
 ASSISTANT DIRECTOR
 ANHRA PRADESH VETERINARY COUNCIL
 Hyderabad


 Deponent
 Dr. Anup Chandra
 Secretary
 Veterinary Council of India

9. In reply to para 9 of the affidavit, it is submitted that since the matter does not come under the purview of the VCI, no comments.


10. In reply to para 10 of the affidavit, it is submitted that the process for preparing the final electoral roll has been followed in letter and spirit as per the provisions of rule 4 to 8 of the IVC Rules as detailed above.

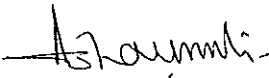
The petitioner even did not follow/not complied Veterinary Council of India, 1984 Rule No.28, the Rule says that Person enrolled on Indian Veterinary Practitioners register to notify change of place of residence or practice as follows:-

Every person registered in the Indian veterinary practitioners register shall notify any transfer of the place of his residence or practice to the Council and the State Veterinary Council within ninety days of such transfer, failing which his right to participate in the election of members of the Council or a State Veterinary Council shall be liable to be forfeited by order of the Central Government either permanently or for such period as may be specified therein.

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Attestor
ASSISTANT DIRECTOR
Animal Husbandry (GD&MAS)
Shantinagar, Hyderabad-28,



Deponent
Dr. Anup B. Aumik
Secretary
Veterinary Council of India

12. BRIEF FURTHER FACTS OF THE CASE :

A. General:

i) The Veterinary Council of India is statutory body established under the Indian Veterinary Council Act 1984 (52 of 1984) (herein referred IVC Act) for the purpose of regulation of veterinary practice and education and the maintenance of registers of the veterinary practitioners and for matters connected therewith. Copy of the IVC Act is at Annexure-I.

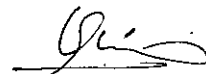
ii) Section 1 of the IVC Act provide that -

(2) It extends, in the first instance, to the whole of the States of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan and to all Union Territories; and it shall also extend to such other States as may adopt this Act by resolution passed in that behalf in pursuance of clause (1) of article 252 of the constitution.

(3) It shall come into force in a State or Union Territory to which it extends, or may become extended in future, on such date as the Central Government may, by notification in the official gazette, appoint any different dates may be appointed for different provisions of this Act for different States or Union territories.

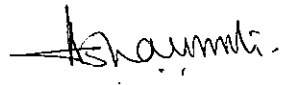
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//Attestor//

ASSISTANT DIRECTOR
Animal Husbandry (COS-1/148)
Shantinagar, Hyderabad-23,



Deponent
Dr. Anup B. Jadhav
Secretary
Veterinary Council of India

iii) At present, the IVC Act extends to all the States and Union territories except the State of Jammu and Kashmir.

iv) As per provisions of Section 3(2) of the IVC Act, the Veterinary Council of India (herein referred as Council) is a body corporate.

v) The Council consist of 27 Members, out of which fourteen are nominated by the Central Government, eleven are elected and two are ex-officio namely Animal Husbandry Commissioner, Government of India and Secretary of the Council.

vi) As per provisions section 3(3)(g) of the IVC Act, "eleven members to be elected from amongst themselves by persons enrolled in the Indian Veterinary Practitioners Register".

vii) Section 4(1) of the IVC Act, provides that "an election under clause (g) of sub-section (3) of section 3 shall be conducted by the Central Government in accordance with such rules as may be made by it in this behalf."

B. The Election Rules-

i) In exercise of powers conferred by section 4 of the IVC Act, the Central Government has framed Indian Veterinary Council Rules 1985, (herein referred is IVC Rules) for conducting the election of 11 members to the VCI. Copy of the IVC Rules is at Annexure-II.

ii) Rule 3 of IVC Rules provides that for the purpose of electing the members of the council under clause (g) of sub section (3) of section 3 the Central Government shall by a notification published in Gazette of India, call upon the persons enrolled in the Register to elect the said members in accordance with the provisions of these rules.

iii) Rule 4 of IVC Rules provides that-

a) As soon as may be after the notification under rule 3 is issued the Secretary shall prepare the roll which shall contain the name of every person whose name is entered in the register.

b) The names of the electors shall be arranged in the order in which they are entered in the register.

iv) Rule 5 of IVC Rules provides that the Secretary shall publish the roll prepared under rule 4 in draft by making a copy thereof available for inspection by displaying in the offices of all State Veterinary Councils and Veterinary Council of India.

v) Rule 6 of IVC Rules provides that every claim for inclusion of a name in the roll and every objection to an entry therein shall be lodged with in a period of fifteen days from the date of publication of the roll in draft under rule 5.

//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry & Fisheries

Deponent

Dr. Anup Kumar

6) Rule 7 of IVC Rule provides that -

i) Every claim shall be signed by the person who requires his name to be included in the roll.

ii) Every objection to the inclusion of a name in the roll shall be preferred by person whose name is already included in the roll and shall be countersigned by another person whose name is also included in such roll.

iii) Every claim or objection, as the case may be, shall be presented to the Registrar of the State Veterinary Council in whose register the name of the claimant has been included, or as the case may be, from whose register the objector requires a name to be deleted.

iv) The Registrar shall, before the expiry of fifteen days from the date of receipt of the claim or objection, as the case may be, forward such claim or objection to the Secretary with his remarks thereon, and, where it is considered necessary, with amendments in the State Veterinary Register as provided under sub-section (4) of section 23.

v) The Secretary may either allow or reject a claim or objection; Provided that a claim or objection shall not be rejected unless the person making it is given an opportunity of making representation against such rejection.

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//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry (S.O. & S.A.S.)
Chattisingar, Hyderabad-23.

Deponent
Dr. Anup Prasad
Secretary
Veterinary Council of India

1-2

vi) The decision of the Secretary allowing or rejecting a claim or objection shall be final.

vii) Rule 8 of IVC Rules provides that :- i) The Secretary shall, after disposing of the claims and objections under rule 7, prepare a list of amendments to carry out his decisions under the said rule and to carry out any clerical or printing error and other inaccuracies subsequently discovered or brought to his notice in the roll.

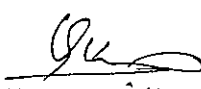
ii) The Secretary shall publish the roll together with the list of amendments by making a complete copy thereof available for inspection by displaying at the offices of the State Veterinary Councils and the Veterinary Council of India.

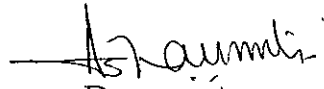
iii) On such publication the roll together with the list of amendments shall be electoral roll of persons who may elect the members of the council under clause (g) or sub section (3) of section 3.

iv) A copy of the roll together with the list of amendments published under sub- rule (2) shall be sent by Secretary to the Central Government.

8. That the IVC Rules 16 (4) provides that -An elector who has not received the voting and other connected papers sent to him by post

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//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry (GOSIALAS)
Shantinagar, Hyderabad-28,


Deponent

Dr. Anup Ch. Samit
Secretary
Veterinary Council of India

or who has lost them or in whose case the papers before their return to the Returning Officer have been inadvertently spoilt may transmit a declaration in writing to that effect and request the Returning Officer not later than fifteen days before the date appointed for the poll to send him fresh papers and if the papers have been spoilt, the spoilt papers shall be returned to the Returning Officer who shall cancel them on receipt.

C. Chronology of Events and Actions taken by the VCI in preparation of the Electoral Roll:

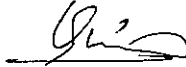
i) The Central Government issued the first notification as per rule 3 of the IVC Rules calling upon the persons enrolled in the Register to elect the members in accordance of the provisions of these Rules on 19.5.2009. The Central Government vide their letter dated 5.6.2009 requested the VCI to prepare the Electoral Roll and submit to them.


ii) Accordingly, as per rule and 4 of the IVC Rules, the Secretary prepared the draft Electoral Roll containing the names of every person whose name is entered in the Register.

iii) As per rule 5 of the IVC Rules, the draft Electoral Roll was circulated to State/U.T Veterinary Councils on 21.7.2009 for its

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//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry (GOVT VLSAS)
Shantinagar, Hyderabad-28,


Deponent
Dr. Anup Eshu.nik
Secretary
Veterinary Council of India

display for mandatory 15 days' period from 24.7.2009 to 7.8.2009 for inspection by the Registered Veterinary Practitioners. Copy of the circular letter is at Annexure -III.

iv) The draft Electoral Roll was also displayed on the website of the Council namely www.vci.nic.in for wider publicity.


v) A public Notice about the publication of draft Electoral Roll was issued in the leading Newspapers in the State Capitals on 22.7.2009 for information of the registered Veterinary practitioners. Copy of the Notice published in the "Times of India" at Hyderabad edition is at Annexure-IV.


vi) Through the above circular letter dated 21.7.2009, the State/UT Veterinary Councils were requested to forward all claims or objections received by the Registrar of the State Veterinary Council to this Council as per provisions of rule 7(4) of the IVC Rules before 21.08.2009 positively.

vii) A reminder to the circular dated 21.7.2007 was issued to the State/UT Veterinary Councils to timely submit the claims/objections

vide letter dated in the month of August, 2009.

Dr. Anup Kumar
Secretary
Veterinary Council of India
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//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry (SUCH/CL-2)
Shardha Nagar, Hyderabad-50,

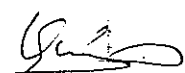

Deponent
Dr. Anup Kumar
Secretary
Veterinary Council of India

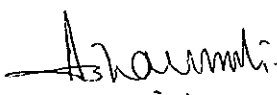
viii) All the claims/objections as received from the Registrars of the State/UT Veterinary Councils under rule 7 of the IVC Rules within the period stipulated as per rule 6 of the said Rules (i.e. 21.8.2009 as notified in the present process) were considered for effecting the amendments/changes in the draft Electoral Roll. Based on the claims/objections as forwarded by the Registrars of State/UT Veterinary Councils as per rule 7 of the IVC Rules, a total of 187 deletions of names and 386 changes of addresses were made in the Electoral Roll.

ix. As per provisions of rule 8 of IVC Rules, the final Electoral Roll containing names of 51,693 registered Veterinary practitioners together with list of amendments was published on 28.8.2009 for inspection by displaying at the offices of the State/U.T. Veterinary Councils and the VCI. The said final Roll was supplied to the Registrars of the State/U.T. Veterinary Councils vide this Council's letter dated 28.8.2009. A copy of the letter is at Annexure -V. Further, the said Roll has also been made available on the website of the Council for reference by the registered Veterinary practitioners.

x. In accordance to the rule 8(4) of the IVC Rules, the final Electoral Roll together with the list of amendments was submitted to the Central Government on 31.8.2009. Copy of the letter is at Annexure-V.

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//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry (GOVT. LAB)
Shanthinagar, Hyderabad-50.


Deponent

Dr. Anup Kumar
Secretary
Veterinary Council of India

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D. Comments specific to the Writ Petition No. 25775 of 2009:


i) The Registrar, Andhra Pradesh State Veterinary Council (Respondent No. 4) vide letter No. 706/T/2009 dated 20.8.2009 informed to this Council that "no claims or objections were received in the office of the Registrar, A.P. Veterinary Council regarding the draft Electoral Rolls published by Veterinary Council of India for conduct of election of new members for Veterinary Council of India, within the stipulated time i.e. 15.8.2009." Copy of the letter of the Andhra Pradesh State Veterinary Council is at Annexure-VI.

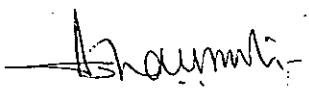
ii) The State Council sent a CD of the whole State Veterinary Register of Andhra Pradesh containing names of all the registered Veterinary practitioners without any remarks of change of address. A copy of the CD is at Annexure -VII.

iii) As the information provided by the Andhra Pradesh State Veterinary Council in the form of CD did not contain any remark regarding change of addresses of Registered Veterinary Practitioners in the State Veterinary Practitioners Register, the same was in contrary to rule 7 (4) of the IVC Rules, and hence was not considered for making amendments in the Electoral Roll.

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//Attestor//
ASSISTANT DIRECTOR
Animal Husbandry (GOVT. COLLEGE)
Veterinary Council of India


Deponent
Secretary
Veterinary Council of India

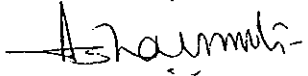
iv) As no claim/objection regarding change of address in the Electoral Roll was received from the registered Veterinary practitioners of Andhra Pradesh through the Registrar of the Andhra Pradesh State Veterinary Council as provided under the IVC Rules, no changes in their addresses were effected.

v) Hence, the steps taken by the VCI in finalizing the Electoral Roll have been strictly in accordance with the procedures as laid down in the IVC Rules, 1985 (framed by the Central Government) and all the valid claims/objections of the registered Veterinary practitioners have been duly considered for the amendments at the time of finalization of the Electoral Roll.

9. In view of the above submissions, it is prayed that the petition may be dismissed and the stay is vacated to enable the election machinery to complete the election process.

Hence it is prayed that this Hon'ble Court may be pleased to vacate the interim order passed in W.P.No.25775 of 2009 dt.27.11.2009 and dismiss the writ petition with costs and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Sworn and signed before me on
this the 3rd day of December, 2009
at Hyderabad.


Deponent

ADVOCATE-HYDERABAD

ASSISTANT DIRECTOR
Animal Husbandry (SOCIALAS)

S. Anup Kumar
Secretary
Veterinary Council of India

99-1
VERIFICATION

I, Dr. Anup Bhaumik, S/o. late Dr. A.M. Bhaumik, being the respondent No.2, do hereby verify and state that the contents of the paragraphs of the Affidavit are true to my personal knowledge, based on information and based on legal advice believed to be correct.

Verified at Hyderabad on this the 3rd day of December, 2009.

A. Samir Kumar Reddy
ADVOCATE

A. Bhaumik
DEPONENT

[Signature]
ASSISTANT DIRECTOR
Animal Husbandry Hospital
Shimoga District Veterinary College - 576 104

Dr. Anup Bhaumik
Secretary
Veterinary Council of India