

15/3/10

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
SPECIAL LEAVE PETITION

[Under Article 136 of the Constitution of India]

SPECIAL LEAVE PETITION (CIVIL) NO. 8698 OF 2010

(Against the interim order dated 15.02.2010 passed in W.A.M.P. No. 303 of 2010 in W.A. No. 120 of 2010 by the Hon'ble High Court of Judicature of Andhra Pradesh at Hyderabad).

(WITH PRAYER FOR INTERIM RELIEF)

IN THE MATTER OF:

Veterinary Council of India

..... Petitioner

Versus

Dr.K. Krishna Kumar & Ors.

...Respondents

PAPER BOOK

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ADVOCATE FOR THE PETITIONER:

NAVIN PRAKASH

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B.

SYNOPSIS AND LIST OF DATES

1. The petitioner herein, viz., the Veterinary Council of India (in short, 'the VCI'), is aggrieved by that part of the impugned order of the learned Division Bench whereby, while admitting the writ appeal of the petitioner herein, the petitioner has been directed to implement the following orders of the learned Single Judge (the petitioner herein has been referred to as 'the 2<sup>nd</sup> respondent' and the Andhra Pradesh State Veterinary Council as 'the 4<sup>th</sup> respondent' in the orders of the learned Single Judge) :

"Hence, the writ petition is allowed, and the 2<sup>nd</sup> respondent is directed to fix another date of polling for the Veterinarians, who are members of the 4<sup>th</sup> respondent, and send ballot papers to the addresses furnished in the Compact Disk, forwarded by the 4<sup>th</sup> respondent. It is needless to mention that the ballot papers sent by it to such addresses, on earlier occasion, shall stand cancelled. The counting of the votes shall take place, after completion of the polling, as indicated above."

It is submitted with utmost respect that the learned Division Bench has committed a serious error in directing the petitioner herein to implement the aforesaid directions inasmuch as:

- a. the orders and/or directions of the learned Single Judge are contrary to the provisions of the Indian Veterinary Council Act, 1984 (hereinafter referred to as 'the said Act') and the Rules made thereunder, viz., the

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Indian Veterinary Council Rules, 1985 (hereinafter referred to as 'the said Rules') and, as such, implementation thereof would give rise to illegality;

- b. the learned Single Judge has made the directions without dealing with and recording a finding on the specific plea of the petitioner herein that the Registrar has not followed the procedure prescribed in law while furnishing the information and that the information so provided in the CD cannot be straightaway acted upon as that would be contrary to the provisions of the said Act and the Rules;
- c. the orders and/or directions of the learned Single Judge are incapable of compliance inasmuch as neither the ballot papers from Andhra Pradesh, which have been cancelled by the learned Single Judge, can be segregated from the rest of the ballot papers already received from all over the country nor would it be possible to check and prevent possible use of two ballot papers by a single voter (registered veterinarian) from Andhra Pradesh;
- d. if the orders/directions of the learned Single Judge are complied with, an anomalous situation would emerge, for the results of the election would be vitiated for the reasons mentioned above and would be amenable to further challenge;
- e. the nature of the directions made by the learned Single Judge are such that they ought to be carried out by the Returning Officer appointed by

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the Central Government and not by the petitioner herein save and except to the extent of preparation of Electoral Rolls by the petitioner herein; and

- f. even otherwise, interference by the learned Single Judge in writ jurisdiction at the fag end of the election process and on the basis of unsubstantiated allegations and disputed questions of facts so as to bring the entire election process at a halt, is contrary to the well established principle in law that the Courts are reluctant to interfere once the election process has commenced. This is substantiated by the chronological events stated hereinafter.

2. That it is pertinent to note that:

- a. it was neither pleaded nor alleged by the writ petitioner that the Secretary, VCI has prepared the Electoral Roll without following the procedure laid down in the said Act and the Rules nor was it pointed out that any of the provisions of the Act or the Rules have been violated by the petitioner herein nor the learned Single Judge has anywhere recorded findings to that effect;
- b. the case of the sole writ petitioner was based on a bald allegation that because of non acceptance of the CD by the Secretary of the VCI and consequently not updating the Electoral Roll qua the State of Andhra Pradesh, more than 60% of the ballot papers in the State would be returned undelivered – this allegation was not substantiated much less

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proved nor any instance of an individual voter complaining non receipt of ballot papers and asking for a duplicate one was pointed out (the said Rules provide that if an individual voter does not receive ballot paper, he may approach the Returning Officer for issuance of a duplicate one);

- c. the learned Single Judge in his order has though recorded but not dealt with at all the submissions of the petitioner herein that the CD submitted by the Registrar of the Andhra Pradesh Veterinary Council was not in compliance of the provisions of Rule 7(4) of the said Rules inasmuch as the information provided were not supported by any remarks of the Registrar and therefore the said CD was not acted upon;
- d. the said Rule 7(4) casts an obligation upon the Registrar of a State Veterinary Council to send all claims and objections pertaining to the draft Electoral Roll with his (Registrar's) remarks to the Secretary, VCI who has been vested with the powers to dispose of such claims and objections. In the instant case, the Registrar of A.P. Veterinary Council in his letter dated 20.08.2009 addressed to the Secretary, VCI had categorically written 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. 15.08.09." In absence of any claim or objection, the Registrar of the State Council could not have said that the addresses of several registered veterinarians are to be updated. Nonetheless, the said letter further stated that latest address

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of the registered veterinarians is furnished for updating the rolls. However, no supporting materials in support of the said statement were provided nor were there any remarks of the Registrar qua each of those registered veterinarians whose addresses were stated to be updated;

e. despite the specific statement of the Registrar of A.P. State Veterinary Council that no claims or objections with regard to the draft Electoral Roll were received in his office, the learned Single Judge had proceeded on the premise as if claims and objections regarding the draft Electoral Roll were received: the learned Single Judge has observed, "On receiving the intimation, the 4<sup>th</sup> respondent displayed the same at their office, and received objections from the concerned members....."; and

f. since admittedly there were no claims and objections to the draft Electoral Roll in respect of the State of Andhra Pradesh, no fault can be found if the Secretary, VCI has retained the draft Electoral Roll without any change in the final Electoral Roll qua the said State.

3. That the petitioner is a statutory body created under the provisions of the said Act enacted by the Parliament pursuant to resolution passed under Article 252(1) of the Constitution of India by the States of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan (and now adopted by all the States except the State of J & K). Section 3 of the said Act provides for establishment and composition of the VCI. Under the provisions of Section 3, there are nominated, ex officio and elected members. Section 3(3)(g) provides that eleven members to



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be elected from amongst themselves by persons enrolled in the Indian Veterinary Practitioners Registers (IVPR). Chapter III of the said Act deals with the preparation and maintenance of the IVPR. Chapter VII deals with preparation and maintenance of State Veterinary Practitioners Registers. The election under the said provisions is conducted by the Central Government in accordance with the rules (i.e., the said Rules) framed therefor. Election is conducted in every three years. Under Section 4(2), any dispute regarding any election to the VCI is referred to the Central Government for its decision. For the sake of convenience, the following provisions of the said Act are reproduced hereinbelow:

23. (1) The Council shall, as soon as may be after the commencement of this Act, caused to be maintained in such form and in such manner as may be provided by regulations a register of veterinary practitioners to be known as the Indian veterinary practitioners register which shall contain the names of all persons who possess the recognized veterinary qualifications and who are for the time being enrolled on a State Veterinary register of the State to which this Act extends.

(2). It shall be the duty of the Secretary of the Council to keep the Indian veterinary practitioners register in accordance with the provisions of this Act and of any orders made by the Council, and from time to time to revise the register and publish it in the Gazette of India or in such other manner as may be provided by regulations.

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(3). Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872, and may be proved by a copy published in the Gazette of India.

(4). Each State Veterinary Council shall furnish to the Council six printed copies of the State veterinary register as soon as may be after the 1<sup>st</sup> 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.

24. The Secretary of the Council may, on receipt of the report of registration of a person in a State veterinary register or on an application made in such form and in such manner as may be provided by regulations, by any such person, enter his name in the Indian veterinary practitioners register:

Provided that the Secretary is satisfied that the person concerned possesses a recognized veterinary qualification.

44. (1) The State Government shall as soon as may be cause to be prepared in the manner hereinafter provided a register of veterinary practitioners to be known as the State veterinary register for the State.

(2). The State Veterinary Council shall on its establishment assume the duty of maintaining the State veterinary register in accordance with the provisions of this Act.

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(3). The State veterinary register shall contain the names of the persons possessing the recognised veterinary qualifications.

(4). The State veterinary register shall include the following particulars, namely:-

- (a). the full name, nationality and residential address of the registered person;
- (b). the date of his admission in the State veterinary register;
- (c). his qualification for registration and the date on which he obtained such qualification and authority which conferred it;
- (d). his professional address; and
- (e). such further particulars as may be prescribed.

A copy of the Indian Veterinary Council Act, 1984 is annexed hereto and marked as **Annexure P-1. (Page No. 15-40)**

4. That the said Rules is a complete code in itself so far as the election of members to the VCI is concerned. Rules 4 to 8 of the said Rules, which are reproduced hereinbelow, provide for preparation of Electoral Rolls by the Secretary of VCI:

3. Notification for election to the Council – 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.

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4. Preparation of the roll –(1) 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.

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

5. Publication of the roll in draft – 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.

6. Period for lodging claims and objections - 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.

7. Form of claim and objection and the manner of their disposal –

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

(2) 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.

(3) 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.

(4) 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.

(5) 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.

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

#### 8. Final publication of the roll :-

(1) 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.

(2) 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.

(3) 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.

(4) 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

A copy of the Indian Veterinary Council Rules, 1985 is annexed hereto and marked as **Annexure P-2. (Page No. 41-54)**

5. RELEVANT DATES:

19.05.2009: The Central Government issued a Gazette Notification dated 19.05.2009 under the provisions of Rule 3 of the said Rules calling upon the persons enrolled in the Indian Veterinary Practitioners Register to elect eleven members from amongst themselves for the VCI under Section 3(3)(g) of the said Act. A true copy of the said notification dated 19.05.2009 is annexed hereto and marked as **Annexure P-3. (Page No. 55)**

05.06.2009: The Central Government by its letter dated 05.06.2009 asked the Secretary, VCI to finalize the Electoral Rolls and submit the same. A true copy of the said letter dated 05.06.2009 is annexed hereto and marked as **Annexure P-4. (Page No. 56)**

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16.07.2009: The Central Government appointed Shri G. Subramani, Deputy Secretary in the Department of Animal Husbandry and Fisheries as Returning Officer. Dr. V.K. Gupta, Director (I&C) in the said Department and Dr. Vijaya Kumar, Quarantine Officer, Animal Quarantine & Certification Service, Delhi were appointed as Assistant Returning Officer.

21.07.2009: The Secretary, VCI under a covering letter dated 21.07.2009 addressed to all the States/UT Veterinary Councils sent draft Electoral Roll containing the names of all the registered Veterinary practitioners whose names have been included in the Indian Veterinary Practitioners' Register upto 31.03.2008 with a request to display the same during the mandatory period from 24.07.2009 to 07.08.2009 for inspection by the registered Veterinary practitioners of the respective State/UT. The said draft Electoral Roll was also uploaded on the website of the VCI. By the said letter dated 21.07.2009, all the States/UT Veterinary Councils were requested to forward all claims or objections by the respective Registrar of the State Veterinary Council to the Secretary, VCI as per the provisions of Rule 7(4) of the said Rules on or before 21.08.2009. A true copy of the said letter dated 21.07.2009 is annexed hereto and marked as **Annexure P-5. (Page No. 57-60)**

22.07.2009: Public Notice about the publication of draft Electoral Roll was issued in the leading Newspapers of 22.07.2009 in all the State Capitals. A

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copy of such notice published in the Times of India of Hyderabad edition of 22.07.2009 is annexed hereto and marked as **Annexure P-6. (Page No. 61-62)**

20.08.2009: The Registrar of Andhra Pradesh State Veterinary Council by his letter dated 20.08.2009 informed the Secretary, VCI that no claim or objection was received in his office regarding the draft Electoral Roll. Nonetheless, he sent a Compact Disc stating that addresses of several registered Veterinarians are to be updated without giving any supporting materials and/or his remarks in respect of those registered Veterinarians whose addresses, according to him, needed to be updated. A true copy of the said letter dated 20.08.2009 is annexed hereto and marked as **Annexure P-7. (Page No. 63-64)**

On the basis of information furnished by the Registrars of the various State/UT Veterinary Councils, the Secretary, VCI prepared the final Electoral Roll. However, the information furnished in Compact Disc by the Registrar of A.P. State Veterinary Council were not taken into consideration while preparing the final Electoral Roll inasmuch as the same were not in conformity of Rule 7(4) of the said Rules.

28.08.2009: The Secretary, VCI under his covering letter dated 28.08.2009 sent the final Electoral Roll to all the States/UT Veterinary Council for



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proper display thereof for inspection. The said final Electoral Roll was also uploaded on the website of the VCI. A true copy of the said letter dated 28.08.2009 is annexed hereto and marked as **Annexure P-8. (Page No. 65-67)**

31.08.2009: Under a covering letter dated 31.08.2009, the Secretary, VCI forwarded a copy of final Electoral Roll alongwith a CD to the Central Government. A copy of the said letter dated 31.08.2009 is annexed hereto and marked as **Annexure P-9. (Page No. 68-70)**

04.09.2009: The Secretary, VCI under his covering letter dated 04.09.2009 forwarded State-wise final Electoral Roll to all the States/UT Veterinary Councils for display at the respective State/UT Council and for inspection by the registered Veterinarians. A true copy of the said letter dated 04.09.2009 is annexed hereto and marked as **Annexure P-10. (Page No. 71-72)**

12.10.2009: The Returning Officer published a Gazette notification dated 12.10.2009 under the provisions of Rule 10 of the said Rules giving the following schedules of the election and invited nominations.

(a) Last date for making nominations : 19.10.2009 at 5 p.m.

(b) Scrutiny of nominations : 24.10.2009 at 5 p.m.

(c) Last date for withdrawal of candidature : 26.10.2009 at 5 p.m.

(d) Date of polling (i.e., last date for receipt of ballot papers) : 30.11.2009 at 5 p.m.

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(e) Date, time and place of counting : 1.12.2009 at 10 a.m.

A true copy of the said notification dated 12.10.2009 is annexed hereto and marked as **Annexure P-11. (Page No. 73-77)**

31.10.2009: According to the Returning Officer, by 31.10.2009 he has sent about 52000 voting papers (ballot papers) by post to all the registered electorate as per the final Electoral Roll.

17.11.2009: The President, A.P. Veterinary Council wrote a letter dated 17.11.2009 to the Secretary, Department of Animal Husbandry, Dairy & Fisheries, New Delhi alleging that about 90% of the registered Veterinarians have not received their voting papers and he apprehends rigging of the election. A true copy of the said letter dated 17.11.2009 is annexed hereto and marked as **Annexure P-12. (Page No. 78)**

25.11.2009: The respondent no. 1 herein, who was contesting at the said election, filed a writ petition, being W.P. No. 25775 of 2009, before the Hon'ble High Court of Andhra Pradesh praying for a declaratory relief that the election being conducted without updating the Electoral Roll on the basis of the information furnished by the Registrar, A.P. Veterinary Council, is null and void. According to the writ petitioner, more than 60% of the registered Veterinarians in the State would not have got voting papers since the information

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provided by the respondent no. 2 to the petitioner, was not enough. A true copy of the said writ petition dated 25.11.2009 (without annexures thereto) is annexed hereto and marked as **Annexure P-13. (Page No. 79-88)**

27.11.2009: A learned Single Judge passed an ex parte interim order on 27.11.2009 stating that the date of poll notified in the notification dated 12.10.2009 insofar it relates to the members to be elected by the Andhra Pradesh State Council is concerned shall stand deferred by two weeks. A true copy of the said ex parte ad interim order dated 27.11.2009 is annexed hereto and marked as **Annexure P-14. (Page No. 89-92)**

30.11.2009: A copy of the said ex parte order dated 27.11.2009 was served on the Returning Officer on 30.11.2009 who decided to completely stop further proceedings of the election process inasmuch as it was not possible to separate the ballot papers State-wise in absence of any indication on the envelopes containing the voting papers.

The said writ petition was contested. The Returning Officer on behalf of the respondent nos. 1 and 3 in the writ petition and the Secretary, VCI on behalf of the respondent no. 2 in the writ petition, filed their respective counter affidavits, both dated 03.12.2009, copies of which (without annexures thereto) are annexed hereto and marked as **Annexure P-15 (Page No. 93-**

**109) and P-16(Page No. 110-129)** respectively. The A.P. State Veterinary Council, respondent no. 4 in the writ petition, also filed its counter affidavit dated 22.12.2009, a copy of which is annexed hereto and marked as **Annexure P-17. (Page No. 130-136)**

29.12.2009: The learned Single Judge by his final judgment and order dated 29.12.2009 disposed of the said writ petition, WP No. 25775 of 2009, with the directions as aforesaid. A true copy of the said final judgment and order dated 29.12.2009 in W.P. No. 25775 of 2009 is annexed hereto and marked as **Annexure P-18. (Page No. 137-141)**

27.01.2010: The petitioner herein filed a writ appeal, being W.A. No. 120 of 2010, before a learned Division Bench of the Hon'ble High Court of Andhra Pradesh against the said judgment and order dated 29.12.2009. A miscellaneous application, WAMP No. 303 of 2010, was also filed seeking stay of the judgment and order impugned in the said writ appeal. A true copy of the Memo of Appeal dated 27.01.2010 (without annexures thereto) is annexed hereto and marked as **Annexure P-19. (Page No. 142-151)**

15.02.2010: A writ appeal, WA No. 74 of 2010, filed by the Central Government against the said judgment and order dated 29.12.2009, was summarily dismissed by a learned Division Bench on the ground that the Central Government being an adjudicatory authority under

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the said Act cannot be said to be an aggrieved party. A copy of the said order dated 15.02.2010 in WA No. 74 of 2010 is annexed hereto and marked as **Annexure P-20. (Page No. 152-154)**

15.02.2010: Insofar as the WA No. 120 of 2010 filed by the petitioner herein is concerned, the learned Division Bench was pleased to admit said writ appeal, but refused to grant stay of the judgment and order dated 29.12.2009 impugned therein and directed the petitioner herein to comply with the orders passed by the learned Single Judge. This order dated 15.02.2010 directing the petitioner herein to comply with the orders of the learned Single Judge is being impugned in the present Special Leave Petition.

15.03.2010 : The present Special Leave Petition filed.

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH  
AT HYDERABAD

MONDAY, THE FIFTEENTH DAY OF FEBRUARY  
TWO THOUSAND AND TEN

PRESENT:

THE HON'BLE SMT. T. MEENA KUMARI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

W.A.M.P. NO. 303 OF 2010

IN

W.A.NO. 120 OF 2010

Between:

Veterinary Counsel of India, rep. by its Secretary, A Wing, II Floor, August Kranti  
Bhawan, Bhikaji Cama Place, New Delhi.

.....Petitioner

(Appellant in WA No: 120 of 2010 on the file of the High Court)

AND

1. Dr. K. Krishna Kumar S/o. Shri K. Nagi Reddy, Veterinary Doctor, Dept.  
of Animal Husbandary, A.P. Presently working at Animal Quarantine &  
Certification Services, Rajiv Gandhi International Airport, Shamshabad,  
Hyderabad.

.....Petitioner/Respondent No. 1.

2. Government of India., Department of Animal Husbandry, Dairying &  
Fisheries, Rep. by Secretary, Krishi Bhawan, New Delhi.

.....Respondent No. 1/Respondent No. 2.

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

.....Respondent No. 3/Respondent No. 3

4. A.P. State Veterinary Counsel, Rep. by its President Shanti Nagar,  
Masab Tank, Hyderabad.

.....Respondent No. 4/Respondent No. 4

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in W.A. the High Court may be pleased to stay the order dated December 29, 2009 passed in Writ Petition No. 25775 of 2009, pending final disposal of the W.A. No. 120 of 2010 on the file of the High Court.

The petition coming on for hearing upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri T. Srinivasa Murthy Advocate for the petitioner, and of Sri Ch. Dhanamjaya Advocate for the Respondent No. 1 and of Sri Ponnamm Ashok Goud, Asst. Solicitor General for the respondent No. 2, the court made the following:

**ORDER:** The 2<sup>nd</sup> respondent in W.P. No. 25775 of 2009 has preferred the present writ appeal challenging the order dated 29.12.2009 passed by the learned single Judge in the above writ petition.

The above writ petition was filed challenging the action of the Government of India, Department of Animal Husbandary, Dairying and Fisheries,

rep. by its Secretary, Krishna Bhawan, in issuing notification dated 12.10.2009 proposing to conduct elections, without updating the list of members from the State of A.P. inspite of necessary information furnished by the President of the A.P. State Veterinary Counsel.

Having regard to the facts and circumstances of the case, the learned single Judge passed the order impugned, which reads as follows:

"The 2<sup>nd</sup> respondent is directed to fix another date of polling for the veterinarians, who are the members of the 4<sup>th</sup> respondent and send ballot papers to the addresses furnished in the Compact Disk, forwarded by the 4<sup>th</sup> respondent. It is needless to mention that the ballot papers sent by it to such addresses, on earlier occasion, shall stand cancelled. The counting of the votes shall take place after completion of the polling as indicated above."

It is contended on behalf of the State Veterinary Counsel that the Secretary, VCI, could not have acted upon the CD sent by the Registrar, A.P. Veterinary Council for the reason that the Registrar in his letter dated 20.08.2009 stated that no claim or objection was received in respect of the draft electoral Roll.

In view of the above submission and in the peculiar facts and circumstances of the case, we are of the opinion that the appellant-Council is bound to implement the order of the learned single Judge.



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Accordingly, the appellant is directed to implement the orders of the learned single Judge. However, we make it clear that any election that would be conducted shall be subject to the result of this appeal.

Sd/- M. Suryanarayana Murthy

Asst. Registrar

To:

1. Dr. K. Krishna Kumar S/o. Shri K. Nagi Reddy, Veterinary Doctor, Dept. of Animal Husbandary, A.P. Presently working at Animal Quarantine & Certification Services, Rajiv Gandhi International Airport, Shamshabad, Hyderabad.
2. The Secretary, Government of India., Department of Animal Husbandry, Dairying & Fisheries, Rep. by Secretary, Krishi Bhawan, New Delhi.
3. The Returning Officer, Room No. 230, Krishi Bhawan, New Delhi.
4. The President, A.P. State Veterinary Counsel, Rep. by its President Shanti Nagar, Masab Tank, Hyderabad.
5. One C.C. to Sri T. Srinivasa Murthy Advocate. (OPUC)
6. 2 spare copies.

**//TRUE TYPED COPY//**

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION

[Under Article 136 of the Constitution of India]

SPECIAL LEAVE PETITION (CIVIL) NO. OF 2010

(Against the interim order dated 15.02.2010 passed in W.A.M.P. No. 303 of 2010 in W.A. No. 120 of 2010 by the Hon'ble High Court of Judicature of Andhra Pradesh at Hyderabad)

(With Prayer for Interim Relief)

Position of the parties

In the Court from  
whose order this  
petition arises

In this  
Court

BETWEEN

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

....Appellant

Petitioner

Versus

1. Dr. K. Krishna Kumar  
Son of Shri K. Nagi Reddy  
Veterinary Doctor  
Department of Animal Husbandry  
Presently working at  
Animal Quarantine & Certification Services  
Rajiv Gandhi International Airport  
Shamsabad  
Hyderabad (A.P.).

...Respondent No. 1

.... Respondent -1/  
Contesting

2. SUBSTANTIAL QUESTIONS OF LAW:

The following questions of law arise for consideration by this Hon'ble Court:-

Whether the learned Division Bench was right in directing the petitioner to comply with the impugned directions/orders of the learned Single Judge when the whole grievance of the petitioner herein was that the impugned directions/orders of the learned Single Judge is patently wrong and contrary to the provisions of the Indian Veterinary Council Act, 1984 (hereinafter referred to as 'the said Act') and the Indian Veterinary Council Rules, 1985 (hereinafter referred to as 'the said Rules') and that, in any event, the impugned directions are to be complied with by the Returning Officer and the petitioner herein, save to the extent of updating the Electoral Rolls qua the State of Andhra Pradesh?

3. DECLARATION IN TERMS OF RULE 4 ( 2 ) :

The Petitioner states that no other petition seeking leave to appeal has been filed by it against the impugned judgment and order.

4. DECLARATION IN TERMS OF RULE 6 :

The Annexures P-1 to P-20 produced along with the Special Leave Petition are true copies of the pleadings/documents, which formed part of the records of the case in the Court/Tribunal below against whose order the leave to appeal is sought for in this petition.

5. GROUND 8:

Grant of Special Leave to appeal is being sought on each and amongst other following grounds which are without prejudice to each other:

- (a) For that the learned Division Bench failed to appreciate that the impugned directions/orders of the learned Single Judge was patently wrong and contrary to the provisions of the said Act and Rules.
- (b) For that the learned Division Bench has failed to appreciate that before making the impugned directions, the learned Single Judge ought to have recorded findings to the effect that the Registrar of the A.P. State Veterinary Council has followed the procedure prescribed in law and that the information provided the Registrar in the CD are in conformity with the provisions of the said Act and the Rules in view of the specific plea of the petitioner herein that the Registrar has not followed the procedure prescribed in law while furnishing the information and that the information so provided in the CD cannot be acted upon as that would be contrary to the provisions of the said Act and the Rules.
- (c) For that the learned Division Bench has committed an error in directing the petitioner herein to comply with the impugned directions/orders of the learned Single Judge without first letting the Secretary of the Veterinary Council of India to check the correctness or otherwise of the contents of the data of the CD, for

it is the statutory obligations of the Secretary of the petitioner to do so and that the information provided by the Registrar of the A.P. State Veterinary Council cannot be accepted as sacrosanct or treated to be as gospel truth.

- (d) For that an anomalous situation would emerge if the elections are to be held on the basis of unverified information provided by the Registrar and without complying with the provisions of the Act and the Rules.
- (e) For that the learned Division Bench has failed to appreciate that the election process could not be completed by merely separating the votes of the electorate from the State of Andhra Pradesh inasmuch as altogether 11 candidates have to be elected from throughout India on the basis of preferential representation.
- (f) For that the learned Division Bench has failed to appreciate that the impugned orders and/or directions of the learned Single Judge are incapable of compliance inasmuch as neither the ballot papers from Andhra Pradesh, which have been cancelled by the learned Single Judge, can be segregated from the rest of the ballot papers already received from all over the country nor would it be possible to check and prevent possible use of two ballot papers by a single voter (registered veterinarian) from Andhra Pradesh.

- (g) For that the learned Division Bench has failed to appreciate that the nature of the directions made by the learned Single Judge are such that they ought to be carried out by the Returning Officer appointed by the Central Government and not by the petitioner herein save and except to the extent of preparation of Electoral Rolls by the petitioner herein. Under the said Rules, it is the Returning Officer who is responsible for announcing date of election, counting of votes etc.
- (h) For that if the orders of the learned Single Judge are to be complied during the pendency of the writ appeal filed by the petitioner, the writ appeal would become infructuous.

6. GROUNDS FOR INTERIM RELIEF:

- (a) For that the petitioner has a prima facie case good case in its favour and that there is every likelihood of success.
- (b) For that if the orders of the learned Single Judge are to be complied during the pendency of the writ appeal filed by the petitioner, the writ appeal would become infructuous.

7. MAIN PRAYER:

It is, therefore, most respectfully prayed that Your Lordships may graciously be pleased to: -

- a) grant Special Leave to appeal against the interim order dated 15.02.2010 passed in W.A.M.P. No. 303 of 2010 in W.A. 120 of

2010 by the Hon'ble High Court of Judicature of Andhra Pradesh at Hyderabad; and

- b) pass such other order/orders as Your Lordships may deem fit and proper in the facts and circumstances of the present case .

8. PRAYER FOR INTERIM RELIEFS: -

It is, therefore, most respectfully prayed that Your Lordships may graciously be pleased to: -

- a) pass an ex parte ad interim order staying operation of the impugned interim order dated 15.02.2010 passed in W.A.M.P. No. 303 of 2010 in W.A. 120 of 2010 by the Hon'ble High Court of Judicature of Andhra Pradesh at Hyderabad;
- (b) make the aforesaid order absolute after hearing both the parties; and
- c) pass such other order/orders as Your Lordships may deem fit and proper under the facts and circumstances of the instant case.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

Drawn and filed by:

(Navin Prakash)  
Advocate-on-Record for the Petitioner

Place: New Delhi  
Filed On: 15.03.2010

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
SPECIAL LEAVE PETITION (CIVIL) NO. \_\_\_\_ OF 2010

IN THE MATTER OF:-

Veterinary Council of India

.. Petitioner

Versus

Dr. K. Krishna Kumar & Ors.

...Respondents

CERTIFICATE

Certified that the Special Leave Petition is confined only to the pleadings before the Court/Tribunal whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the special leave petition. It is further certified that the copies of the documents/annexures attached to the special leave petition are necessary to answer the question of law raised in the petition or to make the grounds urged in the special leave petition for consideration of this Hon'ble court. This certificate is given on the basis of the instructions given by the petitioner/person authorized by the petitioner whose affidavit is filed in support of this special leave petition.

Filed by

Navin Prakash  
Advocate for the petitioner

Date:15.03.2010



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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

S.L.P. (C) No.                      of 2010

IN THE MATTER OF:

Veterinary Council of India

.. Petitioner

Versus

Dr. K. Krishna Kumar & Ors.

...Respondents

A F F I D A V I T

I, Dr. Anup Bhaumik, son of Late Dr. A.M. Bhaumik, aged about 48 years, working on the post of Secretary, Veterinary Council of India, having its office at 'A' Wing, II Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi, do hereby solemnly affirm and state as under:

1. That in my official capacity I am conversant with the facts and circumstances of the case and am duly authorised and competent to swear this affidavit.
2. That I have read the contents of the accompanying Special Leave Petition [paras 1 to 8 ] [p. '5-14'], List of Dates [pg. 'B-5'] and having understood the contents thereof, I say that the facts stated therein are based on the information derived from the official record, believed by me to be true and correct to my knowledge.
3. That the S.L.P. Paper book contains total 154 pages.
4. That the annexures are true copies of their respective originals.

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5. That the facts stated in the above affidavit are true to my knowledge; no part of the same is false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION:

I, Dr. Anup Bhaumik, the abovenamed deponent do hereby verify that the facts stated in the above affidavit are true to my knowledge. No part of the same is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 15<sup>th</sup> day of March, 2010.

DEPONENT