

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH  
AT HYDERABAD

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

IN

W.A.NO. OF 2010

Between:

1. Government of India, Department of Animal Husbandry, Dairy and Fisheries, represented by its Secretary, Krishi Bhavan  
NEW DELHI
2. The Returning Officer  
Room No. 230, Krishi Bhavan  
NEW DELHI

...Petitioners/ Appellants

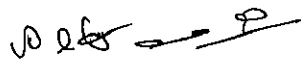
AND

1. Dr K. Krishna Kumar, S/o K Nagi Reddy  
Veterinary Doctor, Dept. of Animal Husbandry  
A.P. presently working at Animal Quarantine  
& Certification Services, Rajiv Gandhi  
International Airport, Shamshabad,  
Hyderabad
2. Veterinary Council of India, Rep by its  
Secretary, A Wing, II Floor, August Kranti Bhavan  
Bhikaji Cama Place, NEW DELHI
3. A.P. State Veterinary Council, Rep by its  
President, Shanti Nagar, Masab Tank  
HYDERABAD

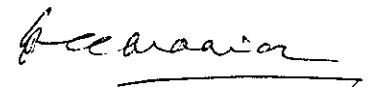
...Respondents/ Respondents

AFFIDAVIT FILED ON BEHALF OF THE PETITIONERS/  
APPELLANTS

I, G. Subramani, son of S. Gopalakrishnan, aged 59 years,  
resident of New Delhi, having, having temporarily come down to



Dr. AMK. Mohana Rao  
Specialist  
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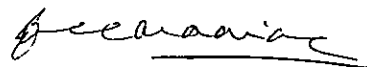
DEPENDENT  
G. Subramani  
Returning Officer  
VCI Elections-2009  
Room No. 230, Krishi Bhawan,  
New Delhi-110 001

Hyderabad do hereby solemnly affirm solemnly affirm on oath and submit as follows;

1. I submit that I am the Petitioner No.2 herein and the Appellant in the Writ Appeal and as such, I know the facts of the case and am, therefore, in a fit position to depose about the same. I depose this affidavit on my behalf and on behalf of the 1<sup>st</sup> Petitioner/ Appellant.
2. It is humbly submitted that the 1<sup>st</sup> Respondent herein has approached this Hon'ble High Court and filed Writ Petition, inter alia seeking for writ of mandamus for declaration that the action of the Petitioners herein in seeking to conduct the elections on 30.11.2009 in terms of notification dated 12.10.2009 as illegal, arbitrary and sought for consequential direction to either postpone or re-schedule the elections, enabling the members from the Andhra Pradesh to participate in the elections, after updating the latest addresses.
3. It is humbly submitted that initially, on 27.11.2009 notice was ordered on the Writ Petitioners and the direction was issued, directing the Petitioners herein to defer the date of poll notified in the notification dated 12.10.2009 in respect of the members to be elected by the A.P. State Council by a period of two weeks. The said order was in operation till 11.12.2009. However, these orders were not extended immediately i.e. on 12.12.2009, but by order dated 17.12.2009, the Hon'ble High Court further extended



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 A.P. State Council  
 National Plant Protection Training Institute  
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 D.V.C. Elections 2009  
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operation of the earlier order by another two weeks. The counters were filed and the Writ Petition was allowed after elaborate arguments, on 29.12.2009.

4. It is humbly submitted that the main contention of the 1<sup>st</sup> Respondent in the Writ Petition is that, he is the employee of the Department of Animal Husbandry of Andhra Pradesh and as such, he has locus to question the elections to be held on 30.11.2009 for election of 11 members to the Veterinary Council of India, New Delhi on the ground that the procedure as contemplated under the statutory Rules was not adhered to.

5. It is the further contention of the 1<sup>st</sup> Respondent that the Veterinary Council of India, New Delhi is a statutory body of the Government of India, established under the Indian Veterinary Council Act and the activities are to be monitored by the Government of India and the State Wing of the Veterinary Council is the third Respondent herein. The Veterinarians registered with the State Council would automatically become the members of the Veterinary Council of India, New Delhi and in exercise of the powers conferred U/s 84 read with Section 4 of the I.V. Council Act and the Rules framed thereunder, the registered Veterinarians would have a right to vote for electing 11 members out of 27 members of the Veterinary Council of India, New Delhi. It is further the contention of the 1<sup>st</sup> Respondent herein that the election schedule was issued on 12.10.2009. According to the schedule, nominations are to be received from 12.10.2009 to 19.10.2009, scrutiny is to be done on 24.10.2009. 26.10.2009 is fixed as

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date for withdrawal of the nominations and the date of election is 30.11.2009. As per Rule 4 of the Indian Veterinary Council Rules, 1985, preparation of the draft electoral rolls is to be done and objections to be called for thereafter and are to be sent within 15 days from the date of publication of draft rules under Rule 5. Further, it was averred by the 1<sup>st</sup> Respondent that the State Council, which is the body to update the addresses of the respective members, had attended to the updating work by incorporating new addresses of the members and sent the C.D. to the Veterinary Council of India, New Delhi on 20.8.2009. But, without taking cognizance of the updated addresses of the members, the Veterinary Council of India, New Delhi went on to conduct the elections. Pausing over here, the contention of the 1<sup>st</sup> Respondent is not correct in as much as the election schedule after notification would be mandatory by the Central Government through the Returning Officer. Be that as it may, it is his further grievance that the Veterinary Council of India, New Delhi behaved in an indifferent manner in getting latest addresses<sup>s</sup> updated in respect of the members from the Andhra Pradesh, despite the State Council has taken pains in updating the rolls and ballot papers were dispatched to the members to their old addresses and as such, they were returned undelivered and thus, more than 60% of the members from the Andhra Pradesh could not exercise their franchise. He further attributes that the Veterinary Council of India, New Delhi acted lethargically and indifferently in updating the rolls, though the State Council has acted promptly. It is further his contentions that he addressed a letter to the Government of India on 17.11.2009, bringing to its

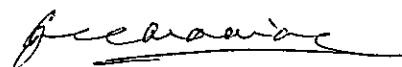
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Dr. AMK. Mohana Rao

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Govt. of Andhra

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notice that 90% of the registered veterinarians have not received the ballot papers and that, he apprehended that elections could not be conducted in fair and proper manner. In this connection, it is humbly submitted that the said letter dated 17.11.2009 addressed by the 1<sup>st</sup> Respondent could have reached the Government in the last week of November 2009 by which time, the entire process of conduct of elections was completed and therefore, there is no substance in the allegations made by the 1<sup>st</sup> Respondent that no favourable action was forthcoming from the Government to his representation dated 17.11.2009.

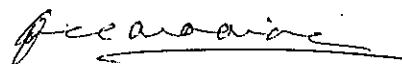
6. Thus, the sum and substance of the contentions of the 1<sup>st</sup> Respondent is that, majority members who were registered with the State Council, have not received the ballot papers, because of lethargic and indifferent attitude of the Veterinary Council of India, New Delhi and thus, the elections that have taken place by 30.11.2009 are not properly conducted and the procedure as contemplated under Rules is not adhered to. The 1<sup>st</sup> Respondent further attributes malafides to the Returning Officer in sending the ballot papers by Certificate of Posting instead of sending by the Registered Post. Thus, the members could not take part in the elections in selecting 11 members out of 27 members to the Veterinary Council of India, New Delhi.

7. It is humbly submitted that two counters were filed, one on behalf of the Petitioners herein and the other on behalf of the Veterinary



Dr. A.V.K. Mahendra Rao

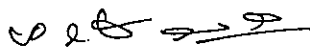
National Veterinary Training Institute  
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G. Subramani  
Returning Officer

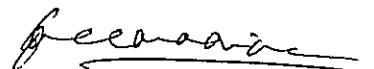
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Council of India, New Delhi, wherein, all the allegations raised by the 1<sup>st</sup> Respondent herein were refuted to. It was submitted that the 1<sup>st</sup> Respondent herein is himself a contestant and that, he filed the Writ Petition in his individual capacity, but not in a representative capacity and therefore, the Writ Petition is not maintainable. It was further stated in the counter that as per the prescribed rules, schedule was given, which was strictly adhered to by the Returning Officer and it is not the duty of either the Government or the Returning Officer to verify the addresses of the registered electorals maintained by the State Council of Veterinary or the Veterinary Council of India, New Delhi. Equally, it has been contended on behalf of the Petitioners herein that sufficient time was given to the members, including the 1<sup>st</sup> Respondent herein in as much as they were directed to give correct addresses all these three years and that, the advertisement in the newspaper were also given and uploaded in the web-site of the Department and even on 12.10.2009, a detailed election schedule was given in all the newspapers and the election process was set in motion on 12.10.2009. As such, the Writ Petition could not have been entertained. It is further contended that belatedly, the 1<sup>st</sup> Respondent herein approached this Hon'ble Court in his individual capacity, attributing malafides and violation of the rules framed for conduct of election to the Veterinary Council of India, New Delhi and since the process is already set in motion and the was half way through, the Writ Petition itself is not maintainable. That apart, the process of conduct of elections vis-à-vis rule position was also quoted. The position under Rules 8 and 9 is categorical that any objections or claim shall be disposed of by the



Dr. AMK. Mohana Rao  
r. Resident Specialist

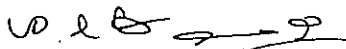
G.O. of India  
National Plant Protection Training Institute  
Bajandra Nagar, Hyderabad-500 030,



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Returning Officer  
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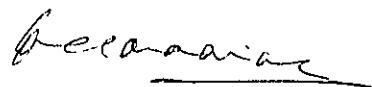
Secretary of the Veterinary Council of India, New Delhi before preparation of list and once the roll is prepared by the Veterinary Council of India, New Delhi and handed over the Central Government and notices are issued by the Returning Officer, any objections or irregularities cannot be entertained. Equally, the position under rule 10 of the Rules was also quoted whereby and whereunder, different dates for conduct of different functions by the Returning Officer were given. Equally, it was contended that the elections cannot be declared as invalid on the ground that an elector could not receive his voting paper or other connected papers, under Sub Rule 6 of Rule 16. In terms of Rule 15 (3), the voting and other connected documents shall be despatched to the registered voters, only under certificate of posting and not by Registered Post.

8. It was further submitted that the process of election had started on 12.10.2009 when the notification was issued, ballot papers were already received and only on 30.11.2009, the orders of this Hon'ble High were passed and the same were communicated by the Central Government Standing Counsel to the Returning Officer and by that time, the entire election process was complete, except counting of votes and declaration of the result. However, in view of the orders passed by this Hon'ble Court, as a measure of abundant precaution, counting of votes and declaration of results are stopped. The boxes storing the ballot papers are kept under lock and key and the Petitioners are facing great difficulty to safeguard, since the Delhi



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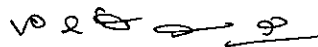
National Planning Commission  
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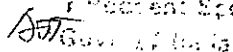
Police or the C.I.S.F. are not in a position to extend the security to guard the boxes containing the ballot papers.

9. It is humbly submitted that the Learned Single Judge has allowed the Writ Petition agreeing to the contentions put forth by the 1<sup>st</sup> Respondent herein that the procedure as contemplated under the Rules is not followed and many of the members from the Andhra Pradesh could not receive the ballot papers since these papers were despatched to their erstwhile addresses, since the Veterinary Council of India, New Delhi did not update the rolls despite the State Council had taken pains and sent the C.D. It is submitted that the Learned Single Judge allowed the Writ Petition, without appreciating the various contentions raised by the Petitioners herein in their counter. First of all, the initial objection of maintainability of Writ Petition was brushed aside. Equally, the contentions that once the election process is started, no writ of mandamus can be issued for stalling the elections and it could be the matter to be agitated in the competent Civil Court by way of filing the Election O.P. Equally, the contentions put forth by the Petitioners in regard to the schedule of election vis-à-vis rule position was not taken cognizance of. Equally, the allegations made by the 1<sup>st</sup> Respondent herein is bald allegation. He did not give up the figure as to what number of membership from the A.P. State Council, how many of them have received the ballot papers and how many could not receive the ballot papers. Obviously, he is not having the knowledge in as much as he filed the Writ Petition in his individual capacity, but not in a representative capacity. Thus, the Writ Petition was filed on mere suspicion and surmises,

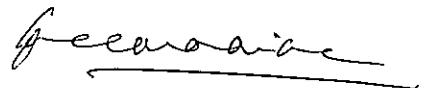


Dr. AMK. Mohana Rao

Plant Pathologist

  
Govt. of India

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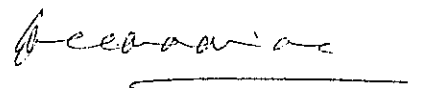


but not on any survey supported by documents. Thus, the entire process of election to a National Body is stalled by the objection raised by a single person, that too, on mere suspicion and surmises and without any substantiative proof of committing of such irregularity in conduct of elections.

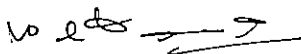
10. It is further submitted that the entire process of election has been over, except for counting and declaration of results. Therefore, there is no justification in passing the impugned judgment. The Petitioners are facing much difficulty in safe-guarding the ballot papers in the absence of any protection being extended by the Delhi police or C.I.S.F. Thus, there is every urgency to count the ballot papers and declare the results. Balance of convenience and equity warrants for suspension of the impugned Judgment to enable the Petitioners to count the ballot papers and declare the results.

11. It is humbly submitted that the grounds of Appeal may be read as part and parcel of this affidavit.


12. It is therefore prayed that this Hon'ble Court may be pleased to suspend the impugned Judgment rendered in W.P. No. 25775 of 2009, dated 29.12.2009, in the interest of justice;



Sworn & signed in my presence



**Dr. AMK. Mohana Rao**  
 Consultant Specialist

  
 National Plant Protection Training Institute  
 Rajendra Nagar, Hyderabad-500 030.

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VERIFICATION

I, G. Subramani, the 2<sup>nd</sup> Petitioner herein do hereby declare that the contents mentioned in the affidavit are true and correct to the best of my knowledge, information and belief.

Hence, verified on this the 22<sup>nd</sup> day of January, 2010.

*G. Subramani*

G. Subramani  
 DEPONENT  
 Returning Officer  
 VCI Elections-2009  
 Room No. 230, Krishi Bhawan,  
 New Delhi-110 001

*Dr. AMK. Mahana Rao*

Dr. AMK. Mahana Rao  
 Affirmation Specialist  
 Gen. Secy  
 National Plant Protection Training Institute  
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