

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NOS.36975, 36446 AND 36458 OF 2017

COMMON ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri Peeta Raman, learned counsel for the petitioners, and the learned Government Pleader for Services (Telangana) and, with their consent, the writ petitions are disposed of at the stage of admission. The validity of the *ad hoc* rule notified in GO Rt. No. 491 dated 29.8.2017 giving eligibility to Bachelor of Science (Commercial Agriculture & Business Management) holders to be considered for appointment to the post of Agricultural Extension Officers Grade-II, and in denying the same benefit to Intermediate Vocational Course holders in Crop Production and Management, is questioned in these writ petitions as being arbitrary and illegal.

The petitioners possess the educational qualification of Intermediate Vocational Course in Crop Production and Management. In terms of GO Ms. No.428 Education Department dated 23.9.1985, candidates who passed this Intermediate Vocational Course were eligible to be considered for appointment as Sub-Assistants(Crop Production), the nomenclature of which was later changed to Agriculture Extension Officer Grade-II. Subsequently, the Government of Andhra Pradesh made the Andhra Pradesh Agricultural Subordinate Service Rules (hereinafter referred to as "the 1997" Rules) in the exercise of its powers under the proviso to Article 309 of the Constitution of India. These rules were notified in GO Ms No. 167 dated 17.4.1997. Rule 5 of the said Rules prescribes the qualifications

for the posts specified in the table referred to in the Annexure. In terms of the annexure to the said Rules, the post of Agriculture Extension Officer Grade – II is required to be filled up by candidates who possess the qualifications specified in Column – III of the table. The Intermediate Vocational Course in Crop Production and Management is not among the qualifications prescribed therein for being considered for appointment as Agriculture Extension Officer Grade – II. Thereafter the State Government made the *ad hoc* rule (hereinafter referred to as ‘the 2017 *ad hoc* Rule’) in the exercise of its powers under the proviso to Article 309 of the Constitution of India, and notified these rules in GO Rt. No.491 dated 29.8.2017. While this *ad hoc* rule included B.Sc (Commercial Agriculture and Business Management) Course also as among the eligible qualifications for being considered for appointment to the post of Agriculture Extension Officer Grade – II, and prescribed a ratio for filling up the said post, Intermediate Vocational Course in Crop Production and Management was not included therein as among the eligible qualifications.

Aggrieved both by the 1997 Rules and the 2017 *ad hoc* Rule, the petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India. While the validity of the Rules can be subjected to challenge on the ground that it is ultravires Part-III of the Constitution, any rule, made in the exercise of the power conferred by the proviso to Article 309 of the Constitution, can be struck down if it is found to be fall foul of the provisions of Part-III of the Constitution, the relief sought for in the present writ petitions is for inclusion of the Intermediate Vocational Course in crop production and Management as among

the eligible qualifications for being considered for appointment as Agriculture Extension Officers Grade – II.

In the exercise of its jurisdiction, under Article 226 of the Constitution of India, this Court would not issue a mandamus to the Legislature to make a law, or to the rule making authority to make a rule, for these are all matters for the State Legislature/rule making authority to consider, and not for this Court to direct. As the petitioners are ineligible, both in terms of the 1997 Rules and the 2017 ad hoc Rule, for being considered for appointment as Agriculture Extension Officers Grade – II, it would be wholly inappropriate for us, at their behest, to examine whether prescription of B.Sc. (Commercial Agriculture and Business Management) Course, as one among the eligible qualifications for being considered for appointment to the post of Agriculture Extension Officer Grade – II, is ultravires Part – III of the Constitution of India.

Sri Peeta Raman, learned counsel for the petitioners, would then contend that non-inclusion, of the qualification of Intermediate Vocational Course in crop production and management, in the adhoc rule is only because the Commissioner of Intermediate Education was not included as one among the members of the Committee constituted to suggest amendments to the Rules, and to prescribe the eligible qualifications for being considered for appointment as Agriculture Extension Officer Grade-II. These again are matters with respect to which this Court would not issue a mandamus, since constitution of Committees and its composition are all matters in the executive realm.

Sri Peeta Raman, learned counsel for the petitioners, would then contend that more than 30,000 unemployed youth in the State of Telangana, mainly from rural areas and from socially and educationally backward sections of society, possess this qualification of Intermediate Vocational Course in Crop Production and Management, and failure to include this qualification among the eligible qualifications, for being considered for appointment as Agriculture Extension Officer Grade – II, would deprive all of them of the opportunity to secure employment; and though the petitioners have addressed several representations, and the 4th respondent himself addressed letters dated 16.7.2011 and 13.5.2016 both to the Principal Secretary, Agriculture and Cooperation Department and the Principal Secretary, School Education Department, no action has taken thereupon till date.

Learned Government Pleader for Services (Telangana) would draw our attention to the letter addressed by the Registrar of the University to the Director of Agriculture (letter dated 18.5.2016). The said letter merely contains the reasons which weighed with the University in concluding that the Intermediate Vocational Course in crop Production and Management was not equivalent to a Diploma in Agriculture. The said letter does not deal with the issue as to why the Intermediate Vocational Course in Crop Production and Management was not included among the eligible qualifications for being considered for appointment as Agriculture Extension Officers Grade – II.

We consider it appropriate, therefore, to permit the petitioners to submit a representation afresh to the 1st respondent. In case such a representation is submitted, the 1st respondent

shall consider the same in accordance with law and communicate his decision to the petitioners herein, within two months from the date of receipt of their representation.

All the Writ Petitions are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI, J)

Date: 08.11.2017

MRKR

