

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25485 of 2015 (O&M)

Date of Decision: 17.05.2017

Kuldeep

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

Present: Mr. RK Malik, Senior Advocate with
Mr. Bhupinder Malik, Advocate;
Mrs. Anu Chatrath Kapur, Senior Advocate with
Ms. Alka Chatrath, Advocate;
Mr. Parveen Chauhan, Advocate;
Mr. Chanderhas Yadav, Advocate;
Mr. Sandeep Kumar Goyat, Advocate;
Mr. Jagjeet Beniwal, Advocate;
Mr. Surender Pal, Advocate;
Mr. PS Dhaliwal, Advocate;
Mr. Ved Parkash, Advocate;
Mr. Gopal Sharma, Advocate;
Mr. Gaurav Singla, Advocate;
Mr. Sanjiv Gupta, Advocate;
Mr. BS Tewatia, Advocate;
Mr. Manoj Tanwar, Advocate;
Mr. Mukesh Yadav, Advocate;
Mr. Rajender Helwa, Advocate;
Mr. SP Chahar, Advocate;
Mr. Sukhbir Maandi, Advocate;
Mr. Ashok Kaushik, Advocate;
Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate;
Mr. Devender Punia, Advocate;
Mr. Jasbir Singh, Advocate;
Mr. Kiran Pal Singh, Advocate;
Mr. Rajesh Lamba, Advocate;
Mr. SS Kaushik, Advocate;
Mr. Naveen Sharma, Advocate;
Mr. Vivek Khatri, Advocate;
Mr. Sunil K Nehra, Advocate;
Mr. SK Malik, Advocate;
Mr. Jasbir Mor, Advocate;
Mr. Wazir Singh, Advocate;
Mr. RS Mann, Advocate;
Mr. SN Pillania, Advocate;
Mr. Rajender Kumar, Advocate;
Mr. GS Duhan, Advocate;
Mr. Vinamra Kaushik, Advocate;
Mr. Naveen S Bhardwaj, Advocate;
Mr. Vikramjeet Singh, Advocate;
For the petitioners

Mr. Deepak Balyan, Addl. AG Haryana
Mr. Dheeraj Jain, Advocate for UOI

Mr. Raghubir Tejpal, Advocate for IGNOU

Mr. Sandeep Sharma, Advocate for VCI

Mr. Balraj Singh Rathee, Advocate
for respondent No.6 (CWP No.3515-2017)

Mr. Anil Kumar Rana, Advocate for
Mr. Lokesh Sinhal, Advocate
for respondent No.7 to 11 (CWP-24664-2015)

Mr. AK Chauhan, Advocate for respondent No.5 (CWP-2091-2017)

Mr. Tarun Vir Singh Lehal, Advocate for UGC

Mr. Rajvir Singh Sihag, Advocate
for Rajasthan Univ. Of Veterinary & Animal Sciences, Bikaner

SURYA KANT, J. (Oral)

(1) In this batch of 57 writ petitions bearing CWP Nos.25485, 24664, 25266, 15214, 20885 of 2015; 3585, 3180, 2844 of 2016; 1268, 2000, 1674, 1614, 2996, 2517, 2719, 2725, 2739, 5493, 5810, 1559, 2105, 1563, 3843, 2751, 1560, 1691, 2721, 5701, 2422, 2504, 1442, 1221, 1726, 1742, 1495, 3515, 2910, 1487, 4137, 1561, 3881, 2091, 1558, 1349, 2876, 5406, 5346, 1437, 5574, 5386, 2160, 5342, 3133, 3107, 1589, 1999 & 2248 of 2017, the petitioners have questioned the validity of Clause at Sr.No.27 of Appendix 'B' of the Haryana Veterinary Headquarter & Field (Group C) Service Rules, 1999 as amended vide notification dated 28.02.2011 whereby qualification for the post of Veterinary Livestock Development Assistant (VLDA) has been prescribed. As per the amended Rule, a candidate having academic qualification of Matric or its equivalent from a recognized University/Board/Institution is further required to possession "***two years Veterinary Livestock Development Assistant Diploma Course from Ch.Charan Singh, Haryana Agricultural University, Hisar or any other Institution recognized/approved by the***

Hindi/Sanskrit upto Matric standard or Higher Education. The petitioners in these writ petitions have done their Diploma Courses in Veterinary Livestock Development from such Agricultural or Veterinary Universities which do not find mention in Appendix-E of 1999 Rules and consequently, they, having been treated ineligible for the post of VLDA advertised by the Haryana Staff Selection Commission, seek to strike down the embargo on the validity of their Diplomas created under the 1999 Rules and seek a consequential direction that they be considered eligible for the advertised posts. For the sake of brevity and to avoid repetition, the facts are being extracted from CWP No.25485 of 2015.

(2) The petitioner in this case though passed his Matriculation from the Board of School Education, Haryana but he is said to have completed his Diploma in Livestock Assistant from Vinayaka Missions University, Salem, Tamil Nadu in the year 2008-09. The aforesaid University does not find mention in the list of 30 Universities included in Appendix-A of the 1999 Rules as amended on 28.02.2011. Resultantly, the petitioner has been rendered ineligible for recruitment to 797 posts of VLDA advertised on 10.07.2015.

(3) The case of the petitioner is that Vinayaka Missions University is a 'Deemed University' under Section 3 of the University Grants Commission Act, 1956 and all programmes imparted by it through Distance Education are approved by the Distance Education Council, Government of India vide letter dated 17.02.2004. Regardless of such recognition, the offending amendment carried out on 28.02.2011, has rendered the petitioner ineligible to compete for the post of VLDAs. The petitioner thus assails the said Rule on the grounds, *inter alia*:-

- i. That the amendment in the Rules whereby Veterinary Diplomas of only 30 Universities, besides the State run University are recognized, amounts to a blanket ban on the validity of the diplomas of all other universities which is *per se* illegal and beyond the powers of the State Government;
- ii. Once the Diploma imparted by Vinayaka Missions University is recognized under the UGC Act, namely, by the Central Government, the action of the State Government in de-recognising such Diploma is directly in teeth of Article 254 of the Constitution and there being direct conflict between the 'Central legislation' and the 'State Rules', the former will prevail.
- iii. The petitioner had completed his diploma course before 2011 and was fully eligible under the 1999 Rules hence the impugned amendment amounts to rendering him ineligible retrospectively.
- iv. The inclusion of some of the universities in the list of recognized institutions is a handpicked exercise undertaken by the State authorities without any rationale and therefore the impugned action does not stand to the touchstone of Articles 14 & 16 of the Constitution.

(4) In the connected writ petitions also, learned counsel for the petitioners have broadly reiterated these contentions. They also rely upon the Executive Instructions of State Government dated 18.03.1975 and 02.11.1999 to contend that the Diplomas/Degrees recognized by the Central Government *ipso facto* stand recognized by the State Government and therefore, also amendment in the Rules is bad in law. Reliance has been placed upon the decisions of this Court in (i) **Manoj Kumar and others vs.**

State of Haryana & Ors. 2007(1) PLR 569; (ii) Dalip Singh vs. State of Haryana & Anr. 2011(2) PLR 228; and (iii) Satish Kumar vs. State of Haryana & Ors. 2013(1) SCT 272 to urge that once the Degree/Diploma imparted by a Deemed University is recognized by UGC, it is not within the competence of the State to refuse to recognize such qualification.

(5) Contrarily, learned Addl. AG Haryana submits that most of the petitioners have obtained their Diplomas through Distance Education from Deemed Universities located in the States of Tamil Nadu, Rajasthan, Himachal Pradesh and other States. He points out that all these Deemed Universities are operating through their Training Centres set up at different places in the State of Haryana where practical training is claimed to have been imparted. An Expert Committee was constituted to randomly inspect these institutions whereupon it submitted its report dated 20.09.2007 (RV) and found that these institutions were being operating in one or two rooms where neither any training centre nor basic facilities to impart the requisite training were found. The Committee summed up its conclusion as follows:-

“SUMMARY

The above mentioned 10 institutes or centres have been found imparting un-recognised and unauthorized VLDA diploma training courses in the State under the affiliation from the following four deemed universities without having basic infrastructure/facilities.

1. *Institute of Advanced Studies in education, Gandhi Vidya Mandir, Sardar Shahar, Rajasthan.*
2. *Janardhan Rai Nagar Rajasthan Vidyapeeth, Udaipur.*
3. *Vinayaka Mission Research Foundation, Salem (Raj.) [sic].*

4. *Allahabad Agriculture Institute Deemed University, Allahabad*

The subject shown in the diploma certificates issued by the above deemed Universities are different and insufficient as compared with the CCS Haryana Agriculture University, Hisar on one hand, on other hand to impart this type of technical diploma without availability of basic facilities and infrastructure seems to be fake and bogus which can prove fatal to public interest. Hence it will be appropriate that these types of trainings should be declared illegal.”

(6) The State Government thereafter on consideration of the Expert Committee report and after comparing the nomenclature, curriculum and syllabus of the Diploma courses imparted by Deemed Universities, took a conscious decision to recognize only those diplomas where the standard of training, curriculum, duration, etc. were at par with that of the State University, namely, CCS University, Hisar (now known as the Lala Lajpat Rai University of Veterinary Sciences). On applying these yardsticks, 30 different Universities in the country were found imparting Diploma courses of equivalent standard hence those Universities were included in Appendix-E referred to at Sr.No.27 (Column-II) of 1999 Rules. He urges that the Deemed Universities which are imparting the Diplomas through Distance Education without any satisfying proof of actual training etc. cannot claim parity with a premier institute like CCS, Haryana Agricultural University or such other recognized Universities. He maintains that parity can be claimed by the institutions which are equally placed as there cannot be equality amongst unequals.

(7) Learned State counsel further submits that the Diplomas relied upon by the petitioners have not been recognized by the Veterinary Council of India. A pointed reference is made to Section 30 of the Indian Veterinary

Council Act 1984, the *proviso* whereof empowers the State Government to “*permit a person holding Diploma or certificate of Veterinary Supervisor, Stockman or Stock Assistant (by whatever name called) issued by the Directorate of Animal Husbandry of any State or any Veterinary institution in India, to render, under the supervision and direction of registered Veterinary practitioner, minor Veterinary services*”. The Explanation appended to Section 30 defines “Minor Veterinary Services” means “*the rendering of preliminary veterinary aid like, vaccination, castration, and dressing of wounds, and such other types of preliminary aid or the treatment of such ailments as the State Government may, by notification in the Official Gazette, specify in this behalf*”. He points out that it is the prerogative of the State Government to recognize a Diploma or Certificate of Veterinary Science if it is not recognized by Veterinary Council of India and in exercise of such powers, the State Government has taken a uniform policy decision to recognize certain diplomas for the purpose of appointment on the posts of VLDAs under the State Government.

(8) Learned counsel for the Veterinary Council of India refers to the written statement filed in CWP No.20885 of 2015 and some other cases where the Veterinary Council of India has taken a categorical stand that none of the Diplomas relied upon by the petitioners are recognized by it. He refers to *proviso* to Section 30 to submit that it is for the State Government to recognize or not to recognize such Diplomas for the purpose of ‘Minor Veterinary Services’.

(9) We have heard learned counsel for the parties at a considerable length and gone through the record.

(10) There is hardly any quarrel that the Veterinary Council of India and the State Veterinary Council have been established under the provisions of the Indian Veterinary Council Act, 1984 which is a Central legislation. Section 2(e) of the Central Act defines ‘recognised Veterinary qualification’ to mean that *‘any of the Veterinary qualifications included in the First Schedule or the Second Schedule’*. Under Section 15 of the Act only those qualifications which are included in the First Schedule can be recognized as valid Veterinary qualifications. Section 30 of the Act is couched in negative language and it provides that no person other than a registered Veterinary practitioner shall hold office as Veterinary physician or surgeon or any other like office in Government or in any other institution maintained by a local or other authority or practise Veterinary medicine in any State subject to the permission accorded by the State Government to render minor Veterinary services under its *proviso*. Section 30 along with its *proviso* and Explanation attached thereto reads as follows:-

“30. Right of persons who are enrolled on the Indian veterinary practitioners register.- No person, other than a registered veterinary practitioner, shall--

(a) hold office as veterinary physician or surgeon or any other like office (by whatever name called) in Government or in any institution maintained by a local or other authority;

(b) practise veterinary medicine in any State:

Provided that the State Government may, by order, permit a person holding a diploma or certificate of veterinary supervisor, stockman or stock assistant (by whatever name called) issued by the Directorate of Animal Husbandry (by whatever name called) of any State or any veterinary institution in India, to render, under the supervision and direction of a

registered veterinary practitioner, minor veterinary services.

Explanation.--" Minor veterinary services" means the rendering of preliminary veterinary aid, like, vaccination, castration, and dressing of wounds, and such other types of preliminary aid or the treatment of such ailments as the State Government may, by notification in the Official Gazette, specify in this behalf;

(c) *be entitled to sign or authenticate a veterinary health certificate or any other certificate required by any law to be signed or authenticated by a duly qualified veterinary practitioner;*

(d) *be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 , (1 of 1872 .), on any matter relating to veterinary medicine."*

[emphasis applied]

(11) From the plain reading of the Explanation appended to Section 30, it can be seen that the preliminary Veterinary aid like vaccination, castration, and dressing of wounds, etc. are included in the 'minor Veterinary services'. These are the primary duties of a VLDA in the Veterinary Department. The power to recognize a diploma or certificate of Veterinary Supervisor, Stockman or Stock Assistant irrespective of the nomenclature for providing 'Minor Veterinary Services' is exclusively vested in the State Government except where such power has been exercised by the Veterinary Council of India.

(12) In the light of the fact that the Diplomas or Certificates relied upon by the petitioners have not been recognized by the Veterinary Council of India, the only short issue left to be examined is that who else is the

Veterinary Services'? This question, in our considered view, stands squarely answered by *proviso* to Section 30 of the 1984 Act where the State Government has been empowered to grant such recognition. We are thus of the view that not only in exercise of its plenary powers to formulate Rules under Article 309 of Constitution but also in exercise of its statutory powers under Section 30 of the 1984 Act, it is the State Government alone who is competent to recognize a Diploma or Certificate of Veterinary Supervisor, Stockman and Stock Assistant, as the case may be. It is in conformity with and in exercise of such power that the State Government formulated the 1999 Rules as amended vide notification dated 28.02.2011.

(13) In view of the fact that under a separate Central legislation, the State Government has been expressly authorized to recognize or not to recognize Veterinary Diplomas or Certificates, the petitioners' contention that their Diplomas having been awarded by Deemed Universities are deemed to have been recognized by the State Government becomes wholly irrelevant and inconsequential. Once the power has been exercised under a special Statute or Legislation, it shall have overriding effect over the general provisions of any other law.

(14) It is not a case where State Government has created monopoly to accord undue favour to the Diploma holders of any particular university. Besides, the diploma course imparted by State-run university, there are 30 other Universities throughout the country which have been recognized for the purpose of public employment. The petitioners therefore cannot be heard to say that the State Government has acted arbitrarily or there is any blanket ban imposed on a class of eligible candidates to prevent them from being appointed as VLDAs.

(15) For the sake of clarification, it may be added that the petitioner's claim that their diplomas have been recognized by UGC and therefore the State Government cannot ignore such recognition is liable to be discarded for yet another reason. The power to recognize a qualification in Veterinary Science is exclusively vested in the Veterinary Council of India and not UGC. Veterinary Council of India is a statutory body at par with any other professional authority like Medical Council of India, Dental Council of India or even UGC. It is the Veterinary Council of India alone who can recognize the qualification in Veterinary Sciences in view of the express power conferred upon it under Section 15 of the Act. The Veterinary Council of India has admittedly not recognized the diplomas relied upon by the petitioners. The recognition of diploma courses in Veterinary Sciences need not be confused with recognition of the universities who are said to have imparted these diplomas. While the Universities may have recognition as Deemed Universities under Section 3 of the UGC Act, the diploma courses imparted by them cannot be validated unless such course is further recognized by Veterinary Council of India in exercise of its powers under Section 15 of the Act.

(16) In the light of the above discussion, we do not find any merit in these writ petitions which are accordingly dismissed.

(17) There are some writ petitions including CWP No.24664, 25266 of 2015; 5346 of 2016 claiming that the institutions from where the petitioners have obtained their Diplomas are duly recognized under Appendix-E of the 1999 Rules. The writ-petitioners, however, have not been treated eligible for the post of VLDAs due to difference in nomenclature of the Course. Liberty is granted to such writ-petitioners to

represent to the Director General, Animal Husbandry, Haryana, who, in turn, is directed to constitute a team of three experts to examine the curriculum/syllabus of these Diplomas vis-à-vis Diplomas in VLDA Course and if it is found that their Diploma Courses are broadly the same, let these petitioners be treated eligible irrespective of the nomenclature of the Diplomas. Such an exercise shall be undertaken within a period of two weeks from the date of receipt of certified copy of this order.

(18) **Dasti.**

(Surya Kant)
Judge

17.05.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	Yes