

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.39178 OF 2017

ORDER :

This Writ Petition is filed seeking writ of mandamus declaring that the petitioners 1 to 4 with Diploma in Animal Husbandry certificate from Nanaji Deshmukh Veterinary Science University, Jabalpur, Mandhya Pradesh and the petitioner No.5 with Diploma in Livestock Management and Dairy Production Certificate from Maharashtra Animal and Fishery Science University, Nagpur, are eligible and entitled to be appointed to the post of Veterinary Assistant in Telangana State in pursuance to Notification No.30/2017, dated 23.07.2017 issued by the 3rd respondent and also to hold that the action of the respondents in not considering their candidature on the ground that the certificates obtained by petitioners are outside State Universities as illegal and arbitrary and consequently to direct the respondents to appoint the petitioners as Veterinary Assistants as per their merit and reservation in the written examination conducted on 23.07.2017 in pursuance to Notification No.30 of 2017, dated 23.07.2017 issued by the 3rd respondent.

2. Brief facts which are necessary for disposal of the Writ Petition are as follows:

It is the case of the petitioners that petitioners 1 to 4 completed their Diploma in Animal Husbandry from Veterinary Polytechnic, Jabbalpur of Nanaji Deshmukh Veterinary Science University and obtained certificates and the 5th petitioner

completed his Diploma in Livestock Management and Dairy Production Diploma Course from College of Dairy Technology, Warud of Maharashtra Animal and Fishery Science University, Nagpur, Maharashtra and obtained certificate. The petitioners have completed Diploma in regular course but not as a correspondence cum contract programme or through distance mode. That Nanaji Deshmukh Veterinary Science University is established under Madhya Pradesh Pashu Chikitsa Vigyan Vishavaidyalaya Adhiniyam, 2009 (Madhya Pradesh Act No.16 of 2009) and that from the Schedule of the Act, the college Veterinary Science and Animal Husbandry, Jabbalpur is a recognized Veterinary College. Similarly, Maharashtra Animal and Fishery Science University, Nagpur, Maharashtra is established under Maharashtra Animal and Fishery Sciences University Act, 1983. That the aforesaid Universities are State Universities, as per the University Grant Commission's website and not as private or deemed Universities and that since the both the Universities appeared in the bulletin issued by the Veterinary Council of India, as such, the aforesaid Universities come within the meaning of 'University' as per Section 2(f) of the University Grant Commission Act, 1956. That the Post of Veterinary Assistant is at category (4) of Class-A in Rule 2 of the Andhra Pradesh Animal Husbandry Sub-ordinate Service Rules (for short 'Rules') framed in G.O.Ms.No.26 AHDD & F (AH-II) Department, dated 28.06.2004 and that the Government of Telangana has adopted the same. In response to the Notification No.30/2017 issued by the 3rd respondent, petitioners have applied for the post of Veterinary

Assistant and undergone written examination conducted on 23.07.2017. That on 23.09.2017, the 3rd respondent commission declared the result and schedule is fixed for verification of certificates from 04.10.2017 to 06.10.2017 in the JNTUH, Kukatpally. Since the petitioners qualified in written examination, they have been called for verification of certificates on 05.10.2017. The personnel on behalf of the 3rd respondent verified the certificates of the petitioners and made an endorsement on the petitioners' basic information data form mentioning that 'outside the State University Certificates' and that their candidature would not be considered for further selection process and appointment to the post of Veterinary Assistant in category (IV) Class-A in Animal Husbandry Department. Aggrieved by the same, present Writ Petition is filed.

3. Counter affidavit is filed by the respondents 1 and 2 denying the allegations in the affidavit filed in support of the Writ Petition stating that the State of Telangana adopted the Andhra Pradesh Animal Husbandry Sub-ordinate Service Rules framed in G.O.Ms.No.26, AHDD & F(AH.II) Department dated 28.06.2004 and the qualifications prescribed for the post are provided in G.O.Ms.No.34 Animal Husbandry, Dairy Development & Fisheries (AH.II) Department, dated 13.09.2013 and G.O.Ms.No.11, AHDD&F (AH) Department, dated 02.06.2017. That the qualifications obtained by the petitioners by way of Diploma are neither covered in Service Rules or in the Notification No.30/2017 issued by the 3rd respondent Commission. According to the job chart, Veterinary Assistants have to render service for first aid to

the livestock; attends to the castration of scrub bulls; vaccination; artificial insemination; fodder development; follow up of clinical cases and follow up work of Weaker Section Programme under guidance/supervision of a qualified Veterinary Assistant at the Dispensaries/Veterinary hospitals in compounding and dispensing of medicines, sterilization of surgical equipment etc., as such, the Diplomas obtained by the petitioners does not serve the departmental needs. It is also stated that the syllabus through which petitioners have undergone is not the same as prescribed by the P.V.Narasimha Rao Telangana Veterinary University or Sri Venkateswara Veterinary University, Tirupati. That the number of subjects prescribed is also more than the subjects studied by the petitioners and that the petitioners have obtained their Diplomas from outside Universities, as such, their candidature was rejected and sought for dismissal of the Writ Petition.

4. Heard learned counsel for the petitioners, learned Assistant Government Pleader for respondents 1 and 2 and Sri D.Balkishan Rao, learned Standing Counsel for 3rd respondent.

5. Learned counsel for the petitioners submits that the qualifications prescribed as per G.O.Ms.No.11 AHDD & F Department, dated 02.06.2017, a candidate must have passed Intermediate Vocational Course in Dairying and Poultry Sciences as one of the subjects of study/two years Poultry Diploma Course conducted by the Sri Venkateswara Veterinary University, Tirupati., which goes to show that the petitioners are eligible to be considered and to be appointed to the post of Veterinary

Assistant. He submits that the petitioners have completed two years Diploma Course in animal husbandry, as such, the respondent authorities cannot reject the case of the petitioners on the ground that they have done courses outside the State, which is illegal and arbitrary. He submits that both the Universities in which the petitioners have studied and acquired requisite qualification for the post of Veterinary Assistant, are the Universities within the meaning of University as per Section 2(f) of UGC Act, 1956, as such, respondent authorities cannot discriminate between the persons who are studied outside State Universities with that of the students who studied in Sri Venkateshwara Veterinary University, Tirupati. In support of his contention, he relied on the judgment reported in **State of Andhra Pradesh & others v. Shaik Mahibulla Sharief¹**.

6. On the other hand, learned Assistant Government Pleader for Services appearing for respondents 1 and 2 submits that the syllabus has been prescribed by the Sri Venkateswara Veterinary University, Tirupati (for short 'SVV University') in the subject notification issued by the 3rd respondent, which is required for holding the post of Veterinary Assistant. He submits that the 3rd respondent Commission prescribed the syllabus in order to see that the persons who have completed Diploma courses should discharge the duties of Veterinary Assistant effectively. He submits that since the petitioners have not undergone the syllabus prescribed by SVV University, as such, they are not eligible to the post of Veterinary Assistant. He also submits that

¹ 2017 (5) SLR 197 (S.C)

in order to get eligibility for the post of Veterinary Assistant, one should undergo the Diploma Course offered by the SVV University, Tirupati or its equivalent. But in the present case, the Diploma degrees obtained by the petitioners are not equivalent, since the subjects prescribed by the SVV University, Tirupati are more than the subjects studied/offered by the Universities, in which petitioners have obtained Diploma Degrees, as such, the 3rd respondent has rightly rejected the case of petitioners for the post of Veterinary Assistant. In support of his contention, he relied on the judgments reported in **State of Punjab and others v. Anita and others**².

7. In this case, it is to be seen that the 3rd respondent Commission issued Notification No.30/2017 dated 02.06.2017 inviting applications from the qualified candidates for the post of Veterinary Assistant in category (4) of Class-A in Animal Husbandry Department. In para 4 of the Notification, requisite educational qualifications for the post of Veterinary Assistant are mentioned, which reads as follows:

Post code	Name of the post	Educational qualifications
1.	Veterinary Assistant in Category (4) of Class-A in Animal Husbandry Department	i) Must have passed two years Animal Husbandry polytechnic Course conducted by P.V.Narsimha Rao Telangana Veterinary University, Rajendranagar or Sri Venkateshwara Veterinary University, Tirupati, in any one of the Animal Husbandry Polytechnics (or) ii) Must have passed intermediate Vocational Course in Dairying and Poultry Sciences as one of the subjects of study/two years poultry Diploma Course conducted by the Polytechnic,

² (2015) 2 Supreme Court Cases 170

		Ramachandrapuram of Sri Venkateswara University Tirupathi, etc.,/two years Intermediate Vocational course in Multipurpose Veterinary Assistant. Provided that the candidate selected with the qualifications in clause (ii) shall undergo one year Departmental Training in Veterinary Assistants Course to be conducted by the Director of Animal Husbandry and those who have successfully completed the said training shall be appointed to the 'Veterinary Assistant post'.
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Admittedly, in response to the Notification issued by the 3rd respondent, petitioners have applied to the post of Veterinary Assistant and participated in written examination conducted by the 3rd respondent on 23.07.2017 and that after successful completion of the same, petitioners were called for verification of their certificates.

8. In the counter affidavit filed by the respondents 1 and 2, it is clearly enunciated that SVV University, Tirupati, has offered 20 subjects for the course of Diploma in Animal Husbandry whereas the Nanaji Deshmukh Veterinary Science University, Jabalpur, Madhya Pradesh, has offered only 14 subjects for the course of Diploma in Animal Husbandry, where the petitioners 1 to 4 have studied Diploma in Animal Husbandry. Similarly, SVV University, Tirupati has offered 20 subjects for Diploma in Animal Husbandry and Live Stock Management & Dairy Production Diploma Course whereas the Maharashtra Animal & Fishery Science University, Nagpur has offered only 15 subjects for the Diploma course in Livestock Management and Dairy Production. Even otherwise, the subjects required to be studied for completion of Diploma

Course offered by SVV University, Tirupati, are quite different from the subjects offered by the Universities, where the petitioners have obtained their Diplomas. That apart, it is stated that three subjects prescribed by the Nanaji Deshmukh Veterinary Science University, Jabalpur, Madhya Pradesh are irrelevant. It is also stated in the counter affidavit that the subjects covered by SVV University, Tirupati/P.V.Narasimha Rao, Telangana Veterinary University, Rajendranagar, Hyderabad are clinical oriented and which are useful for the discharge of Veterinary Assistant job chart whereas the subjects covered by the other Universities are Management and Husbandry oriented are useful to the work in Dairy Farms/Dairy Processing Plants. It is also categorically stated in the counter affidavit that the both the outside State Universities are not offering subjects like a) infectious diseases of livestock and poultry; b) Analytical laboratories techniques; c) Fundamental in Animal Reproduction and Gynaecology; d) Laboratory Diagnostic techniques-1 and e) Laboratory Diagnostic techniques-2, as such, there is a great variation in the subjects covered, credit houses, clinical exposure and overall evaluation.

9. Though it is categorically stated in the counter affidavit that the petitioners are not eligible to be appointed to the post of Veterinary Assistants by stating the aforesaid reasons, no reply is filed by the petitioners rebutting the same. When the petitioners have not studied the subjects prescribed by the SVV University, Tirupati or P.V.Narasimha Rao Telangana Veterinary University, Rajendranagar, they cannot contend that the Diplomas obtained by them through the outside State Universities are equivalent

with that of the Diploma Degrees offered by the SVV University, Tirupati or P.V.Narasimha Rao, Telangana Veterinary University. As such, it cannot be said that the petitioners have acquired requisite qualifications to be appointed to the post of Veterinary Assistant. The Hon'ble Apex Court while dealing with a case in **State of Andhra Pradesh & others v. Shaik Mahibulla Sharief (supra)**, held that the Bachelor's degree in Telugu literature as a single subject from Dr.B.R.Ambedkar Open University is equivalent to a bachelor's degree with Telugu from other Universities. But in the instant case, there are six subjects, which are not covered by both the other State Universities and also that three subjects studied by the petitioners were found irrelevant for the job. As such, the aforesaid judgment of Hon'ble Supreme Court is not applicable to the facts and circumstances of the present case on hand. However, petitioners cannot be denied selection on the ground that they have obtained qualification from outside Universities, but syllabus prescribed for the course undergone by petitioners is not the same as syllabus prescribed by the respondents.

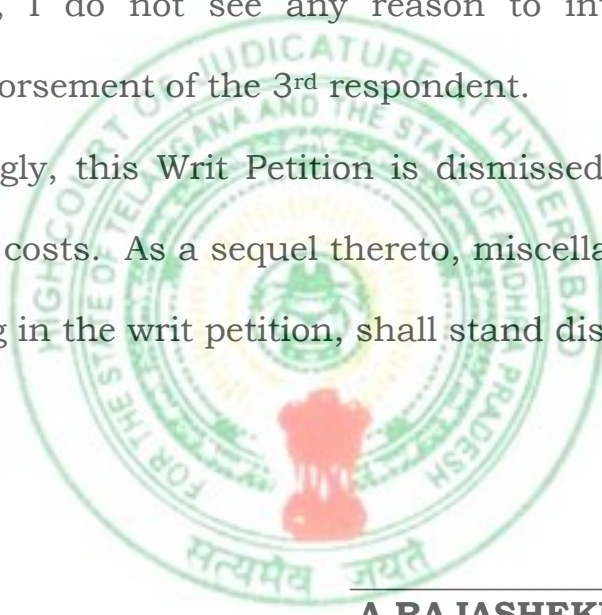
10. The Hon'ble Division Bench of this Court, while dealing with similar issue in W.P.Nos.35517 and 35533 of 2017, wherein the petitioners therein sought for inclusion of certain qualifications as eligible qualifications for appointment to the post of Agriculture Extension Officers Grade-II, held as follows:

“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.”

In the instant case also, it is categorically stated in the counter affidavit that the subjects prescribed by the SVV University, Tirupati for the study of Diploma are more than the subjects prescribed by the outside State Universities, where the petitioners have studied and obtained Diplomas. In those circumstances and also in view of the judgment of Division Bench of this Court, I do not see any reason to interfere with the impugned endorsement of the 3rd respondent.

Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand dismissed.



A.RAJASHEKER REDDY, J

05.06.2018

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WRIT PETITION No.39178 OF 2017



Date: 05.06.2018

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