

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.46183 OF 2018

Date: 18.04.2019

Between:

A.Suresh Nayak, s/o. Sri A.Teekya Naik,
Aged about 35 years, occu: Asst.Professor,
Department of Veterinary and Animal
Husbandry Extension Education College of
Veterinary Science, Korutla, Jagtial District,
Telangana.

.....Petitioner

and

P.V. Narsimha Rao Telangana Veterinary
University, rep.by its Registrar, Administrative
Office, Rajendranagar, Hyderabad.

.....Respondent



The Court made the following:

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ORDER:

Heard Sri Goda Siva learned counsel for petitioner and Sri A.Venkata Ramana learned standing counsel for respondent-University.

2. Petitioner is working as Assistant Professor in P.V.Narasimha Rao Telangana Veterinary University (respondent-University). Petitioner seeks to enroll in Ph.D., in the discipline of Veterinary and Animal Husbandry Extension Education for the academic year 2018-19 as an in-service candidate. However, this Branch is not included in the notification issued on 22.11.2018. Hence, this Writ Petition.

3. Training to Ph.D., candidates is imparted in the College of Veterinary Sciences, Rajendera Nagar, Hyderabad. The candidate has to undergo a course of two semesters in the said College. Ph.D. courses are offered subject to availability of Teaching Faculty. According to University instructions, in any discipline, there must be two accredited Teachers to enroll a candidate to Ph.D.

4. While issuing notification calling for application to enroll to Ph.D. courses, petitioner discipline is not included on the ground that there is only one accredited Teacher in the discipline.

5.1. Learned counsel for petitioner would submit that there is no justification to prescribe requirement of two accredited Teachers in a discipline to enroll a candidate for Ph.D.

5.2. Learned counsel for petitioner would submit that since regular recruitment is not made, the services of qualified persons are utilized as contract faculty. Thus, even assuming that there must be two accredited Teachers to enrol a person to Ph.D. course, but contract faculty should be computed to fulfil the norms and not allotting the contract faculty is *ex facie* illegal. He would submit that for the academic year 2017-18, the Assistant Professor, who is junior to the petitioner, was enrolled to Ph.D., as in-service candidate in Veterinary Physiology, though there was only one accredited Teacher. Such enrolment was granted treating as a special case. However, according to learned counsel, no explanation is forthcoming as to how special privilege was conferred to that person in the previous academic year and why the same is denied in the present academic year. For no valid reasons the proposals sent by the Department are not accepted. The action of respondent-University amounts to arbitrary exercise of power and is not sustainable.

5.3. He would further submit that in the Department of Veterinary Parasitology, the members of the present teaching faculty completed more than five years of service. As per the transfer policy, Mr. G.S.Sreenivasa Murthy, who is second accredited Teacher, is liable for transfer. Thus, in that Branch also, there would be only one accredited Teacher. In Veterinary Anatomy though there was one accredited Teacher as on the date of meeting of the Academic Council, but two M.V.Sc seats were allotted for the academic year 2018-19 though the same ratio as applicable to Ph.D. enrolment is applicable to admission to M.V.Sc.

Smt. Vinayasheela, Assistant Professor, is not yet accredited and going by the policy as contained in the resolution, it would also be a discipline with single Accredited Teacher and is similar to the petitioner discipline. This proves beyond pale of doubt that the selectively relaxations are allowed/exceptions are carved out. He would submit that stand on contract faculty, accredited teachers and availability of qualified teacher in adjacent institute is contrary to University record.

5.4. He would submit that unless petitioner is permitted to prosecute Ph.D., he would not be eligible to seek promotion and, thus would cause serious prejudice to him.

6.1. Based on the averments in the counter-affidavit, and additional counter-affidavit, learned standing counsel would submit that, in view of policy decision taken by the Board of Management approved by the Academic Council, unless there are two regular accredited faculty Teachers available in particular discipline, Ph.D. course cannot be made available and in the discipline of petitioner, there is only one accredited Teacher. He would submit that contract teaching faculty cannot be treated as part of the cadre and, therefore, merely because contract Teachers are available, enrolment to Ph.D. course cannot be allowed. He would submit that as listed out in paragraph-9 of the counter-affidavit, in six disciplines including that of petitioner Ph.D. enrolment and PG programme was not offered during the academic year 2018-19 as sufficient number of accredited Teachers are not available and there is no discrimination against petitioner. He

would further submit that petitioner is working in Korutla and his transfer to Hyderabad would affect teaching in Korutla.

6.2. With reference to the exemption granted earlier, he would submit that in Veterinary Physiology and Pathology, there was one accredited Teacher of the University and one accredited Teacher of Directorate on Poultry Research, which is adjacent to the Veterinary College, agreed to offer the courses available as special case and, therefore, Board of Management resolved to offer Ph.D. course even though two regular accredited Teachers were not available, as a special case.

6.3. It is further asserted that admissions are already completed and, therefore, there is no scope for enrolment at this stage. However, the University is fair in submitting that petitioner is eligible for enrolment of Ph.D., and if the petitioner is intending to prosecute his Ph.D. course in any other institution, the University would depute the petitioner with full salary. In such a case, petitioner can complete Ph.D. course in three years instead of four years prescribed in the respondent-University.

7. From the respective submissions, it emerges that there is dearth of teaching faculty as recruitment is not made for long time and teaching positions are filled up with the contract teachers/ drawing teachers on deputation from other institutions.

8. As can be seen from the Resolution No.8 of the Academic Council, dated 08.11.2018, enrolment to Post-Graduation programme / Ph.D. is proportionate to the number of accredited Teachers available in a discipline. According to this resolution, if

there are two accredited Teachers available, two would be allowed; if there are three, three would be allowed; if there are four, four would be allowed; and so on. The first paragraph of the resolution stipulates requirement of minimum of two accredited Teachers in Headquarters to enrol to Ph.D. In the additional counter-affidavit, respondents sought to justify the reason for stipulating minimum two accredited Teachers to enrol into Ph.D. According to the respondent-University, if only one accredited Teacher is available in any Department, his workload does not permit to offer M.V.Sc./ Ph.D. course. It is further contended that one teacher cannot have experience in all specialized subjects and, therefore, PG/Ph.D. programmes are not offered, if only one Teacher is available in the College.

9. This stand is not valid for more than one reason. As per the resolution, it appears that one accredited teacher is required for one PG/Ph.D., course. Assuming what is stated is right, if there are two accredited teachers, the resolution allows enrolment into two PG/Ph.D. courses. That is so, it is not explained even in the additional counter-affidavit as to how the workload would reduce merely because there are two accredited teachers. A careful perusal of the resolution would make it clear that it does not keep aside one accredited teacher while evaluating necessity to enrol into PG/Ph.D. course. Further, in the Department of petitioner, there is one Head of Department, who is accredited teacher and one contract teacher. Thus, even if accredited teacher is utilized for enrolment into Ph.D course, the contract Teacher can share the burden on academic side and other aspects. Further, Ph.D. courses are offered only in Veterinary College at Hyderabad.

Perforce, petitioner has to be transferred to Hyderabad to enrol into Ph.D. Once he is transferred, as he is also accredited teacher, the norm of two, assuming the same is required, is also fulfilled and in addition there is one contract teacher.

10. Further, with reference to the availability of accredited teachers in the Department of petitioner, it is seen that Dr. Vijaya Raghavan, contract teacher, though engaged on hourly basis, is authorized to teach Post Graduation students also. This is evident from the proceedings of the Dean of Veterinary Science of respondent-University dated 06.07.2018, whereas in the additional counter-affidavit, it is stated that he is authorized to teach only Under Graduation courses, which is contrary to the record. Dr. D.Thammi Raju, who is the Principal Scientist of ICAR Institute, is accredited to teach and guide Ph.D/PG students in the Veterinary College vide proceedings of Dean of Veterinary Science of respondent-University dated 06.11.2017. Contrary to these proceedings, in the additional counter-affidavit, it is stated that Dr. D.Thammi Raju has not consented to offer Ph.D. courses for the academic year 2018-19. As rightly contended by the learned counsel for petitioner, he could not have been enrolled as accredited teacher without his consent. There is no material placed on record to show that he withdraw his consent. This statement in the additional counter-affidavit is also contrary to the record.

11. Further, the justification not to grant enrolment of petitioner to Ph.D. course on the ground that if he is transferred to Hyderabad, there will be shortfall of one regular faculty member in

the College at Korutla, is not valid again, for more than one reason. Firstly, merely because there is a possibility of dearth in the faculty cannot be a ground to deny legitimate claim for enrolment if the candidate is otherwise eligible. Secondly, as admitted, there is huge shortfall of regular faculty in all Departments, and the vacancies are filled up on contract basis / drawing the Teachers from other institutions on deputation and, therefore, the same procedure can be resorted to. Further, these are not the aspects spelled out in the decision of academic council.

12. It is strange to note that while University also recognizes dearth of teaching staff, it is inclined to send the petitioner on deputation with full pay and allowances to undergo Ph.D. course elsewhere, which would be burdening the University on pay and allowances, and would result in loss of an accredited teacher for three years, which can be filled up only by contract lecturer/ lecturer drawn on deputation, but refuses to transfer him to its college in Hyderabad. The decision to allow petitioner to prosecute Ph.D outside the University goes against their objection to bring him to Hyderabad. Further, in case of another discipline, departure was made permitting a Teacher of another institute to be made available for enrolling in-service candidate into Ph.D. course. Why such course is not adopted for this academic year is not explained. It is apparent to note at this stage that *post facto* respondents are trying to find excuses to deny the valid claim set up by the petitioner.

13. It is not disputed that for further advancement in service, petitioner must acquire Ph.D. Thus, denying petitioner to

prosecute Ph.D would in effect amounting to blocking his avenues to advance in service.

14. Except for taking hyper technical objections on claim of petitioner, no serious administrative inconvenience or impairment to academic schedule is pointed out. As fairly submitted by both counsel unlike regular academic courses for enrolment into Ph.D. and completion, there is no water tight academic schedule. The candidate is required to complete the Ph.D., within 3/4 years. The indication of academic year is only for the purpose of identifying the Ph.D. courses during an academic year. Further, the notification was issued on 22.11.2018, prescribing last date as 10.12.2018 and this Writ Petition was filed on 18.12.2018. Thus, Writ Petition cannot be thrown out on the ground that normal academic session coming to end and admissions are completed.

15. For the aforesaid reasons, the stand of the respondent-University in not notifying Ph.D. programme in the discipline of Veterinary and Animal Husbandry Extension Education for the academic year 2018-19 is not valid. There cannot be selective preferences without justification. The decision to exclude the said discipline amounts to arbitrary exercise of power, is discriminatory and illegal. The Writ Petition is allowed and direction as prayed for is granted. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

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