

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 13.03.2020

CWP-26609-2019

Virender Singh

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

And

CWP-6017-2020

Shri Kishan Bagoria

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Ranjit Singh Kalra, Advocate
for the petitioner in CWP-26609-2019.

Mr. Anurag Goyal, Advocate
for the petitioner in CWP-6017-2020.

Ms. Shruti Jain Goyal, DAG, Haryana.

RITU BAHRI, J.

This order shall dispose of two petitions bearing No. CWP-26609-2019 and CWP-6017-2020 having identical issue. However for the sake of convenience, the facts are being extracted from CWP-26609-2019.

The petitioner is seeking writ of certiorari and writ of quowarranto for quashing order dated 11.09.2019 (Annexure P-11) whereby respondent No. 3- Dr. A.S. Yadav, Professor and Head, Animal Breeding, Lala Lajpat Rai University of Veterinary & Animal Sciences (LUVAS) has been appointed on the post of Managing Director of Haryana Livestock

Development Board, Panchkula against the petitioner and the petitioner has been posted as OSD in Animal Husbandry and Dairying Department against a vacant post with immediate effect.

The petitioner was appointed as Veterinary Surgeon on 17.03.1988 by way of direct recruitment and served upto 07.06.2000. Pursuant to regular selection process conducted by HPSC, the petitioner was selected and appointed as Project Director, Enquiries Production on 08.06.2000. Vide appointment letter dated 26.08.2003 (Annexure P-1), the petitioner was selected and appointed as Joint Director (Animal Husbandry) through regular selection process in the Animal Husbandry and Dairying Department. Vide order dated 15.01.2013 (Annexure P-4) petitioner was promoted as Director, Animal Husbandry and this order was later modified vide order dated 22.05.2014 (Annexure P-5) and petitioner's services were placed at the disposal of Haryana Livestock Development Board, Panchkula as Managing Director on deputation, as per the provisions contained in Haryana Murrah Buffalo and other Milch Animal Breed (Preservation and Development of Animal Husbandry and Dairy Development Sector) Act, 2001. Vide order dated 14.09.2017 (Annexure P-7), petitioner was recalled from deputation as Managing Director and repatriated to the department of Animal Husbandry and Dairying, Haryana and posted as OSD in the department. Thereafter vide order dated 18.09.2017 (Annexure P-8) one Dr. G.S. Jakhar was given additional charge of the post of Managing Director of Haryana Livestock Development Board. The petitioner challenged the order dated 14.09.2017 by way of filing CWP-22561-2017 and during the pendency of this writ petition, vide order dated 06.03.2018 (Annexure P-9) repatriating and posting the petitioner as OSD in the Animal Husbandry and

Dairying, Haryana was cancelled. Finally the writ petition was dismissed vide order dated 21.12.2018 (Annexure P-10). Vide order dated 11.09.2019 (Annexure P-11), respondent No.3 has been appointed as Managing Director of Haryana Livestock Development Board and the petitioner again has been posted as OSD in Animal Husbandry and Dairying Department and this order is being sought to be challenged on the following grounds:-

1. As per Section 4(4) of 2001 Act, the Managing Director of the Board has to be officer of the State Government not below the rank of Joint Secretary or the Director of the Animal Husbandry. The said rule is as under:-

“4. The Chairman, the Vice-Chairman, the Managing Director and the Member Secretary shall be appointed by the Government upon such terms and conditions as it may think fit; Provided that the members specified under clauses (a) and (b) of subsection (3) may also be appointed as Chairman, Vice Chairman, Managing Director or Member Secretary; Provided further that the Managing Director and the Member Secretary shall only be an officer of the State Government not below the rank of the Joint Secretary or the Director of Animal Husbandry.”

2. Further as per the Haryana Murrah Buffalo and other Milch Animal Breed Rules, 2002 (in short '2002, Rules') qualification for the post of Managing Director has been revised which reads as under:-

“Rule 8(2) Managing Director of the Board shall-
(a) be a registered veterinary practitioner as per the Indian Veterinary Council Act, 1984 (52 of 1984).”

Mr. Rajiv Atma Ram, Senior Advocate, has vehemently argued that as per provisions of 2001 Act, neither respondent No. 3 is an officer of State Government and nor the Director of Animal Husbandry and he is not

Council Act, 1984. Hence he does not fulfill the eligibility criteria for appointment to the post of Managing Director. He has further argued that under Section 11(3) of the 2002 Rules, that if the Board fails to report to Government with regard to any action to be taken with respect to any policy matter, the Government can issue directions consistent with the Act and Board shall have to comply with such directions. Hence as per Rule 11(3), it is the Board who has to work to the satisfaction of the Government and the Managing Director, in his individual capacity is not to report to the Government. The respondent No. 3 who is teaching in the LUVAS does not have the requisite eligibility qualification as per the 2002, Rules and he is not fully eligible to be appointed as Managing Director of the Haryana Livestock Development Board.

After notice of this petition, written statement on behalf of respondents No. 1 and 2 has been filed. Learned counsel for the State on the basis of written statement filed, has argued that respondent No. 3 has been called on deputation who is an eminent breeder and was employee of the State Government working as Professor and Head of Department of Animal Breeding, LUVAS and this decision has been taken to put a Board back on rails and as per Section 16 of 2001 Act, the State Government can take steps to remove difficulties while implementing the provisions of the above said act and the appointment of respondent No. 3 has been done while exercising powers under Section 16 of 2001, Act. Respondent No. 3 is a renowned animal breeder and is senior Professor and Head of Department of Animal Breeding in LUVAS, Hisar. He is also Chairman of 'Animal Certification Authority' duly constituted under the Haryana Animal

Registration, Certification and Breed Regulations Act, 2019. She has further argued that the condition of being registered with a Veterinary Council of India, as per Indian Veterinary Council Act, 1984 has been referred in the Act since 2001 whereas by the LUVAS Act of 2010, Animal Sciences has been made a Department of the College of Veterinary Sciences and respondent No. 3 being eminent resource at LUVAS was requested to uplift the standard of the Haryana Livestock Development Board. She has referred to the various irregularities committed by the petitioner as per the AG Audit (Annexure R-2/9) and even the Chairman, Haryana Livestock Development Board had written a letter to the Chief Minister demanding high level inquiry vide letter dated 09.02.2018 (Annexure R-2/10) against the petitioner and in this backdrop, repatriation of the petitioner to the department of Animal Husbandry and Dairying Department on the post of OSD has been rightly done and attempt is made to keep the petitioner away from tampering the record available with him. Further she has argued that the post of OSD was created on 17.07.2013 and has referred to filing of CWP-22561-2017 in which challenge was to order dated 15.01.2013 modified vide order dated 22.05.2014 whereby the petitioner had been sent on deputation as Managing Director, Haryana Livestock Development Board and this writ petition was dismissed on 21.12.2018.

After hearing learned counsel for the parties, the short question for consideration in the present writ petition is whether respondent No. 3 was eligible as per the eligibility criteria laid down in Rule 8(2)(a) of 2002 Rules and as per Section 4(4) of 2001 Act.

Even though in the written statement, the respondents have tried to justify appointment of respondent No. 3 on the post of Managing

Director that he was renowned animal breeder and was senior Professor and Head of Department of Animal Breeding in LUVAS, Hisar and was Chairman of Animal Certification Authority duly constituted under the Haryana Animal Registration, Certification and Breed Regulations Act 2019. However keeping in view the Rules of 2002, the Managing Director has to be a registered veterinary practitioner as per the Indian Veterinary Council Act 1984 and this qualification is mandatory as per the above said Rule, 2002. Respondent No. 3 does not possess this qualification and on this ground itself, appointment of respondent No.3 on the post of Managing Director of Haryana Livestock Development Board is liable to be set aside.

Further the question whether the post of Managing Director, Haryana Livestock Development Board, Panchkula is ex-cadre post is pending before the Division Bench in LPA-424-2019 and this Court does not comment upon the posting of the petitioner as OSD which as per him is ex-cadre post.

Hence, writ petitions are allowed and order dated 11.09.2019 (Annexure P-11) is quashed.

(RITU BAHRI)
JUDGE

13.03.2020
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No