

VETERINARY COUNCIL OF INDIA
v.
INDIAN COUNCIL OF AGRICULTURAL RESEARCH

JANUARY 6, 2000

[DR. JUSTICE A.S. ANAND, CJ, D.P. WADHWA AND
S. RAJENDRA BABU, JJ.]

Education—Admission to Professional Courses—Veterinary Council of India (Minimum Standards of Education) Degree Courses (B.V.Sc. and A.H.) Regulations, 1993—Regulation 5(8)—Power to regulate minimum standards of veterinary education and conduct Common Entrance Test for filling 15% of total number of seats in Veterinary Colleges—ICAR claimed similar powers and held Common Entrance Test—Single Judge injuncted ICAR—In appeal, Division Bench of High Court held Regulation 5(8) to be ultra vires of the Act—On appeal Held, VCI and not ICAR competent and empowered to hold test—Regulation 5(8) not ultra vires of the Act or Invalid but framed to further the object of the Act.

Veterinary Council Act, 1984—Section 22—Power to prescribe standards of veterinary education includes power to regulate admissions to colleges—Regulation of admission has a direct impact on maintenance of "standards of education".

Veterinary Council of India (V.C.I.) has been established under the Veterinary Council Act, 1984, for regulation of veterinary practices and for matters connected or ancillary thereto under Section 22 of the Act. It is empowered to regulate and specify minimum standards of veterinary education in various institutions affiliated to or as a part of State Agricultural Universities. Indian Council of Agricultural Research (I.C.A.R.) is a society registered under Societies Registration Act, 1860 and is controlled by the Central Government. Its main object is to undertake, aid, promote and co-ordinate agriculture and animal husbandry, education and research.

VCI in exercise of powers under Section 22 of the Act, framed the Veterinary Council of India (Minimum Standards of Veterinary Education) Degree Courses (B.V.Sc. and A.H.) Regulations, 1993 relating to minimum standards of veterinary education and to conduct an All India

A **Common Entrance Test. Regulation 5(8) gave VCI power to hold the All India Common Entrance Test and that 15% of the total number of seats of each veterinary college shall be reserved for the test, which was held for the academic years 1995-96 and 1996-97. ICAR advertised that it shall also conduct an All India Common Entrance Test for filling up 15% seats in the State Agricultural Universities including Faculty of Veterinary Science.**

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 VCI filed a suit in the High Court seeking a declaration and permanent preventive injunction against ICAR in this regard, which was granted by the Single Judge. ICAR appealed against that order and also filed a writ petition for quashing of Regulation 5(8) as being *ultra vires* the
 C Constitution and for restraining VCI from declaring the result of the Entrance Test held by it. The Appeal and the writ petition were heard and disposed of together, by the High Court, against which VCI filed these appeals.

D The appellant contended before this Court that it alone was competent to hold such an Entrance Test being concerned with the maintenance of "standards of education".

E The respondent contended that the judgment of the Division Bench of the High Court did not merit any interference as ICAR regulates Agricultural Universities, therefore, only it can regulate admission of students through an All India Entrance Test.

Allowing the appeal, this Court

F HELD : 1.1. The view, that the power to prescribe Minimum Standards of education does not take within its ambit, the power to conduct entrance examination for regulating admission to the colleges, cannot be subscribed to. [51-H]

G 1.2. V.C.I. is authorised to frame regulations relating to prescribing standards of veterinary education for granting veterinary qualifications and such an authority must include the power to regulate admissions to the course so as to maintain the "standards of education". Section 22 of the Veterinary Council Act is a valid piece of legislation enacted by the parliament and Regulation 5(8) has been framed by virtue of the powers vested in VCI under Section 66 of the Act read with Section 22 of the Act. Regulation
 H 5(8) essentially prescribes the manner and method of determining com-

parative merit of the candidates so that admissions are granted to students who qualify at the All India Entrance Examination, on merits. Regulation 5(8) did not suffer from any vice whatsoever and it has been framed to further the object of the Act. It could not have been declared *ultra vires* the Act or otherwise invalid on any other ground. [52-G-H; 53-A-B]

Dr. Dinesh Kumar and Ors. v. Moti Lal Nehru Medical College, AIR (1985) SC 1095, cited.

State of M.P. and Anr. v. Nivedita Jain & Ors., [1981] 4 SCC 296; *Ajay Kumar Singh and Ors. v. State of Bihar*, [1994] 4 SCC 401, relied on.

Munish Kumar Pane v. State of Bihar C.W.J.C. No. 9643 of 1995 decided on 18.12.1995 (Patna); *Jyothi Shah B v. Administrator, Union Territory of Lakshwadeep*, W.A. No. 129 of 1996, decided on 19.3.1996 (Kerala), approved.

Veterinary Council of India v. State of Karnataka, ILR (1996) Kar. 67, overruled.

2.1. It is no longer possible that norms of admission come into picture only after admissions are made and have no connection with "standards of education". Regulation of admissions has a direct impact on the maintenance of standards of education and in exercise of its power to prescribe and maintain standards of education, V.C.I. has the right as well as an obligation to regulate admissions to the veterinary institutions against 15% All India quota by framing appropriate regulations. [53-C]

2.2. Since the power to regulate the standards of education in veterinary science prescribed by the council is vested in VCI under the Act, the corresponding duty to conduct an All India Entrance Examination for filling up of 15% of seats, on merits, of All India Quota, must also vest in it. [55-A]

Dr. Preeti Srivastava & Anr. v. State of M.P. and Ors., [1999] 7 SCC 120, followed.

4. The impugned judgment cannot be sustained. VCI is competent and has the requisite powers, with a view to maintain the standards of education, to hold All India Entrance Examination for filling up of 15% of total number of seats under Regulation 5(8). 34 students who had passed

A the entrance examination conducted by VCI and had been duly admitted to the courses are not to be disturbed, and now there should be no impediment in the way to those candidates to continue and complete their studies.

[55-C-E]

B *Munish Kumar Pane v. State of Bihar*, C.W.J.C. No. 9643 of 1995 decided on 18.12.1995 (Patna); *Jyothi Shah B v. Administrator, Union Territory of Lakshwadeep*, W.A. No. 129 of 1996, decided on 19.3.1996 (Kerala), approved.

C *Veterinary Council of India v. State of Karnataka*, ILR (1996) Kar. 67, overruled.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 13245-13246 of 1996 Etc.

D From the Judgment and Order dated 19.8.96 of the Delhi High Court in F.A.O. No. 231/96 and C.W. No. 2334 of 1996.

Altaf Ahmad, Additional Solicitor General, (Prmod Swarup, Lukose Joseph Vadakara, Ms. Rani Chhabra) (NP), H.K. Puri, Y.K. Rao and Ms. Madhu Sikri for the appearing parties.

E B.B. Sinha and S.C. Patel, (NP) for the Intervenor/Impleading Party.

The following Judgment/Order of the Court was delivered :

F A.S. ANAND, CJ. Which out of the two organizations i.e., the Veterinary Council of India or the Indian Council of Agricultural Research, is empowered to hold an All India Common Entrance Examination to fill 15% seats in the Veterinary Colleges/faculties, is the only meaningful question which we are called upon to decide in these appeals by special leave?

G Undisputed facts for answering the above question are briefly set out hereunder :

H The Veterinary Council of India (hereinafter "VCI") has been established under Section 3 of the Indian Veterinary Council Act, 1984 (hereinafter "VC Act") for regulation of veterinary practice and for matters connected therewith or ancillary thereto under Section 22 of the Act. It is empowered to specify, by regulation, the minimum standards of veterinary

education for granting recognised degrees/diplomas in veterinary science by various institutions affiliated to or as a part of the State Agricultural Universities. The Act has been enacted by invoking Article 252 of the Constitution since the subject matter of the Act falls in the State List (Entry 15 of List II of the Seventh Schedule of the Constitution) and the Concurrent List (Entry 25 of List III of the Seventh Schedule), the Parliament was authorised to pass the requisite legislation by the Legislatures of the States of Haryana, Bihar, Orissa, Himachal Pradesh and Rajasthan through resolutions passed by the Legislatures of these States. The Parliament, therefore, enacted the V.C. Act in 1984.

The Indian Council of Agricultural Research (hereinafter "ICAR") is a Society, registered under the Societies Registration Act, 1860, whose affairs are controlled by the Central Government in the Ministry of Agriculture, Department of Agricultural Research and Education (hereinafter "DARE") in view of Schedule-II, Entry B, Part-III, Item 12 of the Government of India (Allocation of Business Rules), 1961 framed under Article 77(3) of the Constitution of India. The main object of ICAR is :

"(a) To undertake, aid, promote and co-ordinate agricultural and animal husbandry education, research and its application in practice development and marketing in India and its protectorates and any other areas in or in relation to which the Government of India has and exercises any jurisdiction by treaty, agreement, grant, usage, sufferance or other lawful, means by all means calculated to increase secure its adoption in every day practice."

In exercise of the powers conferred by Section 22 of the Act and with the previous approval of the Central Government, the VCI framed certain regulations relating to minimum standards of veterinary education, which had earlier been discussed in a National Workshop jointly sponsored by the ICAR and the Tamil Nadu Veterinary and Animal Sciences University on 6th and 7th of February, 1993 at Madras on 'Veterinary Education'. It was resolved in that Workshop that an All India Common Test be conducted by the VCI. Regulations, called the Indian Veterinary Council of India (Minimum Standards of Veterinary Education. Courses (B.V.Sc and AH) Regulations, 1993 (hereinafter "the Regulations") were thereafter framed under Section 22 of the Act and published in the Government

A Gazette on 7th of February, 1994. Clause (8) of regulation 5 of the Regulation (which is the bone of contention between the VCI and ICAR) reads thus :

B "(8)-15% of the total number of seats of each Veterinary College shall be reserved to be filled on All India basis through Common Entrance Examination to be conducted by the Veterinary Council of India."

C Pursuant to the aforesaid regulation, the VCI conducted an All India Common Entrance Examination for the academic year 1995-96 for allotments of student to various Veterinary Colleges and faculties of the State Agricultural Universities on 28th May, 1995 against the 15% quota. For the academic year 1996-97, the VCI also published an admission notice on 25th November, 1995 inviting applications for appearing at the All India Entrance Examination to fill 15% seats in exercise of the powers conferred by sub-section (1) of Section 21 of the Act read with clause (8) of regulation 5 of the Regulations. The examination was held on 26th of May, 1996 and results declared.

E It appears that an advertisement came to be issued, on behalf of the ICAR, in the Employment News Bulletin dated 28th March, 1996, stating that the ICAR will conduct an All India Common Entrance Examination for filling up 15% of the seats in the State Agricultural Universities in each one of the faculties listed in the said advertisement on 8th of June, 1996. Faculty of Veterinary Science was included in the said list.

F On 22nd of April, 1996, the VCI filed a Suit (Civil Suit No. 1047 of 1996) on the original side of the High Court of Delhi, seeking a declaration and permanent preventive injunction against ICAR. A prayer for *ad interim* injunction was also made. By an order dated 5.6.1996, a learned Single Judge of the High Court granted an interim injunction in favour of VCI and restrained the ICAR from conducting the All Common Entrance Examination for filling up of 15% of the seats in the Veterinary Colleges in the States to which, the VC Act applies. According to the learned Single Judge :

H "I am of the opinion that it is the plaintiff who is empowered to hold the examination on all India basis in respect of 15% of the total number of seats of each Veterinary College in the State to

which the Act applies. Accordingly, till further orders the defendant is restrained from conducting All India Common Entrance Examination for filling up 15% of total number of seats in the State Agricultural Universities." A

ICAR filed an appeal against the aforesaid interim injunction (FAO(OS)231 of 1996) on 6th of June, 1996. B

The ICAR also filed a Writ Petition (CW No. 2334 of 1996) on 6th of June, 1996 seeking the relief of "declaring/quashing Regulation 5(8) of the Regulations" as illegal/invalid/ab-initio-void and as such *ultra vires* of the Constitution. The VCI was also sought to be restrained from declaring the result of the All India Entrance Examination conducted by it for filling up 15% of the All India Seats. By the impugned order, the appeal against the interim injunction as well as the writ petition filed by the ICAR, have been heard and disposed of together. The VCI has filed these appeals by special leave. C

Learned counsel for the parties conceded that the inspiration to hold an All India Entrance Examination for admission to the Veterinary Colleges against 15% All India Quota was drawn from the judgment of this Court in *Dr. Dinesh Kumar and Ors. v. Moti Lal Nehru Medical College, Allahabad & Ors.*, AIR (1985) SC 1059, which had laid down certain guidelines for filling up of the 15% of the All India seats in various Medical Colleges in the country, on merits, to be determined through an All India Entrance Examination but differed on the question as to who is to conduct that examination. D

Whereas the learned Additional Solicitor General, Shri Altaf Ahmad submitted that the VCI alone is competent to hold such an All India Entrance Examination being concerned with the maintenance of "standards of education", learned counsel for the ICAR submitted that the judgment of the Division Bench of the High Court did not merit any interference and ICAR, which *regulates* Agricultural Universities, alone can regulate admission of students through the All India Entrance Examination to fill the 15% of the All India seats. Similar arguments had been advanced in the High Court also. E

The Division Bench of the High Court agreed with the submissions made on behalf of ICAR. It noticed that in view of the conflicting stands F

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A taken by the VCI and the ICAR regarding the conduct of The All India
Common Entrance Examination the matter had been taken up at a high
level meeting convened by the Agricultural Minister, where a judgment of
the Karnataka High Court in *Veterinary Council of India v. State of Kar-*
nataka, ILR (1996) Kar 67, decided on 27th of November, 1995 had also
B been considered by the delegates, and it was resolved that the ICAR and
not the VCI would conduct the All India Entrance Examination for the
year 1996. The Division Bench, therefore, opined that the VCI, after the
passing of that resolution, should have stayed its hands and should not have
"indulged into ill advised adventurism of conducting the All India Entrance
C Examination much to the serious inconvenience, expenses and uncertainty
of events to thousands of aspirants for admission to State Agricultural
Universities against all India quota of 15% seats." According to the
Division Bench, since the VC Act did not contemplate any examination
being conducted by VCI for regulating admissions to veterinary institution,
it was not open to the VCI to conduct the All India Entrance Examination
D It was held :

"For the foregoing reasons, CWP 2334/96 is allowed. Sub-para
(8) of para 5 of the Veterinary Council of India (Minimum
Standards of Veterinary Education) Degree Course (B.V.Sc and
A.H.) Regulations, 1993 is struck down as *ultra vires* the Veterinary
E Council of India and *ultra vires* the Veterinary Council Act, 1984.
The entrance examination held by the Veterinary Council of India
on 26.5.1996, pursuant to its notice that 25th November, 1995 is
also held void and without any authority of law.

FAO(OS) 231/96 is allowed and the order of the learned Single
F Judge dated 5th June, 1996 is set aside. The injunction restraining
the ICAR from conducting All India Common Entrance Examina-
tion for filling up 15% of total number of seats in the State
Agricultural Universities is hereby vacated. Costs in both the
proceedings shall be borne as incurred by both the parties."

G The Division Bench of the High Court was of the opinion that
Section 22(1) of the VC Act did not authorise any examination being
conducted by the VCI much less for the purpose of appropriating alloca-
tion of 15% seats to the State Agricultural Universities for All India
students, through framing of any regulations. That the VCI was only
H concerned with maintenance of "standards of education" for granting

recognised Veterinary Qualifications by institutions imparting veterinary education in the State and there is a 'world of difference' between specifying the minimum standards of veterinary education and holding an entrance examination for appropriating quota of certain percentage of seats for admission to 'veterinary institutions'. The Division Bench, consequently, held that Regulation 5(8) could not have been framed by exercising delegated powers to legislate under Section 22(1) of the VC Act and that such a Regulation was *ultra-vires* the Act and invalid. It was also opined that the grant of approval to the Regulations or consultation with the ICAR on the issue of framing of such Regulations at the National Workshop at Madras was 'irrelevant and immaterial'. The Division Bench heavily relied upon the judgment of the Karnataka High Court in *Veterinary Council of India v. State of Karnataka* (supra). In that case, the University of Agricultural Sciences Bangalore had refused to admit the candidates nominated for admission to BVSc - AH Degrees pursuant to an entrance examination conducted by the VCI. On a Writ Petition filed by the VCI, the Karnataka High Court had opined :

"On a plain reading of Section 22, it is quite clear that under this provision the Council can make Regulations only for specifying minimum standards of Veterinary education required for granting recognised Veterinary qualifications by Veterinary Institutions in state/s to which the provisions of the Act has been extended. *This Sections does not confer upon the Council any authority to regulate the admissions to Veterinary Institutions. Similarly Section 66(1) read with Section 66(2)(n) also cannot be construed as conferring any authority on the Council for the said purpose.....* There is no provision under the Central Act which empowers the Council to make Regulations for regulating the admissions of students to Veterinary Institutions. The Regulations framed by the Council for regulating admissions laying down the pattern of admission to Veterinary Colleges are merely advisory in nature and does not necessarily bind any University or the Veterinary Institutions."

(emphasis supplied)

The view taken by the Division Bench to the effect that the power to prescribe minimum standards of education does not take within its ambit, the power to conduct entrance examination for regulating admission to the colleges, also appears to have been influenced by the view of the three-

- A Judge Bench of this Court in *State of M.P. and Another v. Nivedita Jain and Others*, [1981] 1 SCC 296 and in *Ajay Kumar Singh and Others v. State of Bihar*, [1994] 4 SCC 401, (though not referred to in the impugned judgment) wherein it was held that the process of *selection* of candidates for admission to a medical college has no impact on the standard of medical education and that the standard of medical education really comes into the picture only in the course of studies in the medical colleges or institutions 'after' the selection and admission of candidates. The Division Bench also distinguished the judgments of the Patna High Court and the Kerala High Court in *Munish Kumar Pane & Others v. State of Bihar and Others*, (CWJC No. 9643/1995 decided on 18.12.1995) and *Jyothi Shah B. & Others v. Administrator Union Territory of Lakshadweep and Others*, (W.A. No. 129/1996 decided on 19.3.1996), holding that by virtue of the Regulations framed by the VCI in 1993, it had the authority to conduct the All India Entrance Examination for allocation of 15% of seats on merits.

- D We find ourselves unable to subscribe to the view of the Division Bench. There is force in the submission of Mr. Altaf Ahmad, the learned Additional Solicitor General, that sub-section (1) of Section 66 of the VC Act confers powers to frame regulations to carry out the *purposes* of the Act and read with Section 21(1)(b) and 22 of the VC Act which provide :

- E "21. *Withdrawal of recognition.* - (1)(b) - that the staff, equipment, accommodation, training and other facilities for instruction and training provided in such veterinary institution or in any college or other institution affiliated to it do not conform to the standards prescribed by the Council.

- F 22. *Minimum standards of veterinary education.* - (1) The Council may, by regulations, specify the minimum standards of veterinary education required for granting recognised veterinary qualification by veterinary institutions in those States to which this Act extends."

- G the VCI is authorised to frame regulations relating to prescribing *standards of veterinary education* for granting veterinary qualifications and such an authority must include the power to regulate admissions to the course so as to maintain the 'standards of education'. It is not disputed that Section 22 (*supra*) is a valid piece of legislation enacted by the Parliament. Clause (8) of Regulation 5 (*supra*) has been framed by virtue of the powers vested
- H in the VCI under Section 66 of the VC Act read with Section 22 of the VC

Act. Clause (8) of Regulation 5 (supra) essentially prescribes the manner and method of determining comparative merit of the candidates so that admissions are granted to students who qualify at the All India Entrance Examination to the various institutions and faculties, on merits. The impugned regulation, therefore, did not suffer from any vice whatsoever. It has been framed to further the object of the Act. It could not have been declared *ultra vires* the Act or otherwise invalid on any other ground.

In view of the judgment of the Constitution Bench in *Dr. Preeti Srivastava and Another v. State of M.P. and Others*, [1999] 7 SCC 120, it is no longer possible to argue that norms for admission come into picture only after admissions are made and have no connection with 'standards of education'. On the contrary, regulation of admissions has a direct impact on the maintenance of standards of education and in exercise of its power to prescribe and maintain standards of education, the VCI has the right as well as an obligation to regulate admissions to the veterinary institutions against the 15% All India quota by framing appropriate regulations.

In *Dr. Preeti Srivastava's* case (supra) to which one of us (namely, CJI) was a party, the Constitution Bench opined :

"It would not be correct to say that the norms for admission have to connection with the standard of education, or that the rules for admission are covered only by Entry 25 of List III. Norms of admission can have a direct impact on the standards of education. Of course, there can be rules for admission which are consistent with or do not affect adversely the standards of education prescribed by the Union in exercise of powers under Entry 66 of List I. For example, a State may, for admission to the postgraduate medical courses, lay down qualifications in addition to those prescribed under. Entry 66 of List 1. This would be consistent with promoting higher standards for admission to the higher educational courses. But any lowering of the norms laid down can and does have an adverse effect on the standards of education in the institutes of higher education. Standards of education in an institution or college depend on various factors. Some of these are:

- (1) the calibre of the teaching staff;
- (2) a proper syllabus designed to achieve a high level of education

- A in the given span to time;
- (3) the student-teacher ratio;
- (4) the ratio between the students and the hospital beds available to each student;
- B
- (5) the calibre of the students admitted to the institution;
- (6) equipment and laboratory facilities, or hospital facilities for training in the case of medical colleges;
- C
- (7) adequate accommodation for the college and the attached hospital; and
- (8) the standard of examinations held including the manner in which the papers are set and examined and the clinical performance is judged.
- D

While considering the standards of education in any college or institution, the calibre of students who are admitted to that institution or college cannot be ignored. If the students are of a high calibre, training programmes can be suitably moulded so that they can receive the maximum benefit out of a high level of teaching. If the calibre of the students is poor or they are unable to follow the instructions being imparted, the standard of teaching necessarily has to be lowered to make them understand the course which they have undertaken; and it may not be possible to reach the levels of educational and training which can be attained with a bright group. Education involves a continuous interaction between the teachers and the students. The pace of teaching, the level to which teaching can rise and the benefit which the students ultimately receive, depend as much on the calibre of the students as on the calibre of the teachers."

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(Emphasis ours)

The Constitution Bench in *Dr. Preeti Srivastava's* case (supra), expressly disagreed with the views earlier expressed in *Nivedita Jain's* and *Ajay Kumar Singh's* case (supra) in this regard.

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Thus, in view of the law laid down by the Constitution Bench in *Dr. Preeti Srivastava's* case (supra), it must be held that since the power to regulate the standards of education in veterinary science prescribed by the Council is vested in VCI under the VC Act, the corresponding duty to conduct an All India Entrance Examination for filling up of 15% of seats, on merits, of All India Quota, must also vest in it.

The impugned judgment, in view of what has been noticed above, cannot be sustained. Both the appeals consequently succeed and are allowed. The view expressed by the Patna High Court in *Munish Kumar Pane & Ors. v. State of Bihar & Ors.* and by the Kerala High Court in *Jyothi Shah B. & Ors. v. Administrator Union Territory of Lakshadweep and Ors.*, to the effect that the VCI was competent to hold the All India Entrance Examination for filling up of 15% of the seats thus lays down the correct law while the view of the Karnataka High Court in *Veterinary Council of India v. State of Karnataka* (supra) can no longer be considered to be good law. It is accordingly held that VCI is competent and has the requisite powers, with a view to maintain the standards of education, to hold the All India Entrance Examination for filling up of 15% of total number of seats under Clause (8) of Regulation 5 (supra). The question posed in the earlier part of this order is answered accordingly.

On 11.10.1996, when leave was granted in the special leave petitions, on the statement of learned counsel representing the ICAR, to the effect that 34 students who had passed the entrance examination conducted by the VCI and had been duly admitted to the courses, would not be disturbed, no further interim order was made. As a consequence of our judgment there is, therefore, now no impediment in the way of those candidates selected by the VCI at the Common Entrance Examination to continue and complete their studies.

Appeals are allowed. No costs.

I.A. Nos. 3-12 & 15-18 (Applications for intervention)

No one present.

Rejected.

I.A. Nos. 23-24

In view of the orders made in the main Civil Appeals no orders are

A required to be made in these applications.

Contempt Petition Nos. 267-268/97

In view of the orders made in the main Civil Appeals we do not propose to entertain these Contempt Petitions.

B A.Q.

Appeals allowed.