

PETITIONER:
VETERINARY COUNCIL OF INDIA

Vs.

RESPONDENT:
INDIAN COUNCIL OF AGRICULTURAL RESEARCH

DATE OF JUDGMENT: 06/01/2000

BENCH:
D.P.Wadhwal, S.Rajendra Babu

JUDGMENT:

A.S. ANAND, CJI :

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? Undisputed facts for answering the above question are briefly set out hereunder : 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) Degree 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 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 : "(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."

Pursuant to the aforesaid regulation, the VCI conducted an All India Common Entrance Examination for the academic year 1995-96 for allotments of students 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. 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. 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 India 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 : "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."

ICAR filed an appeal against the aforesaid interim injunction [FAO(OS) 231 of 1996] on 6th of June, 1996. 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 the 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. 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. Vs. 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. 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. 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 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 Vs. State of Karnataka, ILR 1996 Kar 67, decided on 27th of November, 1995 had also 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 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. 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 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 Judge dated 5th June, 1996 is set aside. The injunction restraining the ICAR from conducting All India Common Entrance Examination 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."

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 allocation of 15% seats to the State Agricultural Universities for All India students, through framing of any regulations. That the VCI was only 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 Vs. 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 Section 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-Judge Bench of this Court in State of M.P. and another Vs. Nivedita Jain and others, (1981) 4 SCC 296 and in Ajay Kumar Singh and others Vs. 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

be correct to say that the norms for admission have no 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 I. 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 in the given span of time; (3) the student-teacher ratio; (4) the ratio between the students and the hospital beds available to each student; (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; (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.

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."

(Emphasis ours)

The Constitution Bench in Dr. Preeti Srivastava's case (supra), expressly disagreed with the views earlier expressed in Nivedita Jains and Ajay Kumar Singhs case (supra) in this regard. 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. Vs. State of Bihar & Ors. and by the Kerala High Court in Jothi Shah B. & Ors. Vs. 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 Vs. 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.