

**HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Shekhar B. Saraf, J.

**WPA 7274 of 2011
With
CAN 1 of 2012
(Old CAN 2323 of 2012)
[Application not in file]
With
CAN 2 of 2016
(Old CAN 2866 of 2016)
With
CAN 3 of 2018
(Old CAN 2190 of 2018)
With
CAN 4 of 2021
With
CAN 5 of 2023**

**West Bengal Veterinary Alumni Association & Ors.
-versus-
Union of India & Ors.**

**For the Petitioner : Mr. Pradip Kr. Dutta
Mr. Sandip Ghosh
Mr. Debayan Ghosh**

For the State : Mr. K.M. Hossain

**For the E.C.I. : Mr. Joydip Kar
Mr. Anuran Samanta**

Heard On : September 20, 2023.

Judgement On : September 20, 2023.

Shekhar B. Saraf, J.

This is an application under Article 226 of the Constitution of India wherein the writ petitioners have challenged their requisitioning for Assembly Election duty for the year 2011. Subsequently, several applications have been filed by the writ petitioners challenging similar requisitioning for the subsequent elections including State and Parliamentary elections.

The main contention of the petitioners is that handbook that was issued in the year 2009, exempted veterinary doctors from being requisitioned.

On the other hand, Mr. Joydip Kar, learned Senior Counsel appearing on behalf of the Election Commission of India, has submitted a notification existed bearing no. 464/INST/2008-EPS dated 26.12.2008 which provided as follows:-

“Doctors and compounders working in veterinary hospitals will not be requisitioned for deployment on election duty.”

Mr. Kar has conceded that though the handbook in 2009 did not include the term ‘working in veterinary hospital’, subsequent handbooks have been amended in terms of the said notification and presently contains the words ‘doctors and compounders working in veterinary hospital’.

It is to be noted that interim relief was granted to the petitioners. However, since the handbooks are now in tune with the said notification, the petitioners shall be exempted only if they are working in veterinary hospitals.

Counsel appearing on behalf of the petitioners relies that the definition of 'veterinary hospital or institutions' provided in notification dated August 6, 2008 at paragraph 2(o) that reads as follows:-

“2(o) ‘Veterinary Hospital or Institution’ means teaching and non-teaching Veterinary Hospital or Institution relevant to livestock health, production or technology by whatever name called.”

To submit that all doctors and compounders working in such institutions should be exempted. This contention of the petitioners is vehemently opposed by Mr. Kar who submits that the above definition is a dual definition wherein hospital is defined to mean teaching and non-teaching veterinary hospital while veterinary institution is defined to mean institution relevant to livestock health, production or technology by whatever name called. He submits that when the exemption has been granted for doctors working in veterinary hospitals, it does not include veterinary institutions and therefore, there is a definition that is required to be made out.

Upon reading of the particular definition, there does appear to be some confusion with regard to the definition of the term 'veterinary hospital' and whether this veterinary hospital also refers to institution relevant to livestock health, production or technology. In my view, though the above definition is a composite definition, veterinary hospital is limited to veterinary hospitals which are teaching and non-teaching hospitals and may not include veterinary institutions that are relevant to other departments. In the said notification, one

also finds the definition of veterinary college that is distinct from veterinary hospitals or institutions.

The instant petition is presently of not much relevance as the Election of 2011 is over and the other elections which are referred in the applications connected to this writ petition, are also over. The omnibus declaration sought by the petitioners with regard to future election is not something which this Court wishes to delve into.

Needless to mention, the Election Commission of India shall take into account the controversy that has arisen due to the confusion in the definition that may have prevailed in the past and come out with a subsequent handbook that will remove any such doubt. It is also to be kept in mind that apart from the exemptions that are provided in the handbook, persons are also entitled to apply for exemption and the same is considered each time by the Election Commission of India on a case to case basis.

With these above observations, WPA 7274 of 2011 along with all connected applications is disposed of.

All parties are to act on the website copy of this order.

(Shekhar B. Saraf, J.)