

**(2000) 10 AP CK 0017**

**In the Andhra Pradesh High Court**

**Case No : Writ Petition No. 16253 of 2000**

B. Siva Prasad Reddy

APPELLANT

Vs

Convenor, EAMCET-2000, JNT University, Hyderabad and  
others

RESPONDENT

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**Date of Decision : 30-10-2000**

**Acts Referred:**

Andhra Pradesh Agricultural University Act, 1963 — Section 22  
Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of  
Capitation Fee) Act, 1983 — Section 12, 15, 3(1)  
Constitution of India, 1950 — Article 371  
Veterinary Council Act, 1984 — Section 21(1)

**Citation : (2000) 6 ALD 669 : (2000) 6 ALT 545**

**Hon'ble Judges : V.V.S. Rao, J**

**Bench : Single Bench**

**Advocate : Mr. L.J. Veera Reddy, for the Appellant; Mr. C. Kodanda Ram, SC for JNTU, Mr. B. Siva Reddy, SC for Agrl. University and Government Pleader for Education, for the Respondent**

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## **Judgement**

1. The writ petition is filed praying for a writ a mandamus declaring the action of the 2nd respondent namely, the Acharya N.G. Ranga Agricultural University, Hyderabad (hereafter called "ANGRAU") prescribing the condition that a candidate who has completed 22 years of upper age by 31-12-2000 is not eligible for seeking admission in I year B.V.Sc. and A.M. (Bachelor of Veterinary Science and Animal Husbandry) as illegal and arbitrary.

2. The petitioner had chequered education career with which this case has no concern. Finally he appeared for Engineering Agricultural and Medical Common Entrance Test, 2000 (EAMCET) and obtained a rank of 915. After declaration of the results of EAMCET, so as to prosecute B.V.Sc and A.H. for the academic year 2000-2001, he applied for the said course. By a paper notification dated 30-8-2000, the candidates were required for spot counselling for admission. In the said paper notification it was mentioned in the note that the persons with

ranks 915, 1276 etc., need not attend the counselling which was held between 4-9-2000 and 8-9-2000. The petitioner approached the 2nd respondent though he did not receive any communication. The petitioner was, however, orally informed by the office of the Registrar that as the petitioner has completed 22 years by 31-12-2000, he is not eligible to seek admission to 1 year B.V.Sc and A.H. course. Hence this writ petition.

3. This Court issued notice before admission and directed the 2nd respondent to reserve one seat in the agricultural course. When the matter was listed before me for further orders, as the counter affidavit is filed and this matter relates to the admission of a student into 1 year B.V.Sc. course with the consent of the parties, the matter is taken up for disposal.

4. ANGRAU has filed counter affidavit inter alia stating as follows:

The EAMCET regulations are not applicable for undergraduate courses of ANGRAU, that they are only meant for EAMCET for admission into various undergraduate professional courses. The rules of admission of the University are in tune with the guidelines/regulations issued by the Indian Council of Agricultural Research and Veterinary Council of India. Accordingly the University while prescribing the prospectus has prescribed the upper age limit of 22 years and that it was found that the petitioner is not eligible for admission into 1 year B.V.Sc. course.

5. Sri L.J. Veera Reddy, learned Counsel for the petitioner submits that the Rules made by the Government of Andhra Pradesh in exercise of powers u/s 3 read with Section 15 of the A.P. Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (hereafter called the "Act"), known as A.P. Educational Institutions (Regulation of Admission into Under Graduate Professional Courses through Common Entrance Test) Rules, 1993 (hereafter called "the Rules") are binding on the University by virtue of the provisions of Section 12 of the said Act. As per Rule 4, there is no upper age limit for seeking admission to agricultural courses which include B.V.Sc. and A.H. offered by the respondent-University. Therefore, he submits that rejection of the petitioner's claim for admission is illegal and contrary to the Act and the Rules.

6. Sri B. Siva Reddy, learned Standing Counsel for the University submits that the University is conducting agricultural courses as well as veterinary courses. The University is bound by the guidelines given by the Indian Council of Agricultural Research insofar as B.Sc (Ag.) is concerned and likewise the University is bound by the regulations/rules framed by the Veterinary Council of India insofar as B.V.Sc and A.H. Further, he submits that as per Section 22 of the A.P. Agricultural University Act, 1963 (hereafter called "Special Act"), the Academic Council which is an authority of the University is competent to prescribe eligibility criteria. Accordingly, the Academic Council has prescribed maximum age limit keeping in view the guidelines issued by the Veterinary Council of India. Therefore, he submits that the action of the University in

rejecting admission to the petitioner for the I year B.V.Sc and A.H. course is justified.

7. The point that arises for consideration is whether the action of the ANGRAU can be justified for rejecting the application of the petitioner?

8. Be it noted that except on the ground that the petitioner has completed 22 years of age, it is not denied that the petitioner is eligible to seek admission for I year B.V.Sc course. The point that requires consideration, therefore, is whether the prescription of Rule by the ANGRAU prescribing maximum upper age limit for all candidates seeking admission in agricultural courses including B.V.Sc. is valid and within their power.

9. So as to prohibit collection of capitation fee and regulate admissions into educational institutions is the State of Andhra Pradesh, the Legislature of A.P enacted Act 5 of 1983. As per Section 3 of the Act, admission into all educational institutions shall be made either on the basis of the marks obtained in the qualifying examination or on the basis of the ranking assigned in the entrance test conducted by such authority in such manner as may be prescribed by the rules. Proviso to Section 3(1) is categorical that admission into medical and engineering courses shall be made only on the basis of ranking assigned in the common entrance test. No doubt, while making admissions, the educational institutions shall also have to adhere to the A.P. Educational Institutions (Regulation of Admissions) Order, 1974 made by the President under Article 371(d) of the Constitution of India. As per Section 12 of the Act the provisions of the Act shall have effect notwithstanding anything inconsistent thereof for the time being in force. Rule 15 empowers the State Government to make rules.

10. The various University Acts including the Special Act empowers the Executive Council or the Academic Council as the case may be to make necessary regulations or statutes concerning admission, curriculum and other eligibility criteria for admission. But a question is often raised as to which are the rules that should prevail in the matter of admissions. The question, however, is no more *res Integra*.

11. A Division Bench of this Court in *Dileep Damodaran Vs. Govt. of A.P. and others*, , has considered the question whether the University of Health Sciences by virtue of provisions contained University of Health Sciences Act, 1986 is empowered to prescribe its own reservation policy contrary to the statutory rules made by the Government in exercise of powers under Sections 3 and 15 of the Act 5 of 1983. After elaborately referring to the provisions of University of Health Sciences Act and Act 5 of 1983, the Division Bench held as follows:

"It is true that the University autonomy must be jealously guarded in matters of academic nature and the internal management of the Universities and its various faculties but to say that the University can formulate a rule of reservation which is in conflict with a similar rule made by the State Government and the State Government is the best authority to deal with such matters of reservation is not

warranted by the principles of autonomy of the University. In fact, the rules of reservation are apt to be made by the State Government authorities after taking into consideration the several factors which may be having a bearing on the matter. It is also definitely in the interests of the educational institutions to have a uniform rule of reservation rather than to leave the matter to the individual whims and fancies of the Universities concerned for providing the rule of reservation. We, are, therefore, not impressed with any of the three submissions made by the learned Counsel for the University of Health Sciences."

12. The plenary power of the State Government to make rules and the binding nature of the rules made was upheld. Again in an unreported judgment of this Court in *Rohit Pande v. Government of A.P.*, WP No.12953 of 1992 and Batch dated 12-2-1993, a Division Bench of this Court considered the same question as to the scope and ambit of the powers of the State Government vis-a-vis the University regarding the admissions into the educational institutions. After considering the various authorities as well as the various rules and provisions of law and relying on the judgment of this Court in *Dileep Damodarn's* case (supra), this Court held that the University of Health Sciences cannot make any rules contrary to the rules made by the State Government under the Act 5 of 1983. It was further observed as follows:

"If each University prescribes which according to it, is the proper percentage of seats to be reserved in favour of a particular category, it may lead to many complications. Probably, with that view, power must have been specifically conferred upon the State Government in the matter of making reservation of seats, under Act No.5 of 1983. Therefore, we hold that only the State Government has the power to make reservation of seats to the members belonging to any category of students and the University of Health Science does not have any such power."

13. In view of the settled position of law, the submission of the learned Standing Counsel for the University that the University can make rules in exercise of powers u/s 22 of the Special Act cannot be accepted.

14. The next question is whether there is any inconsistency between the rules made by the State Government prescribing eligibility criteria for admission to B.V.Sc course and the rules made by the Veterinary Council of India.

15. It is now authoritatively settled by the judgment of the Supreme Court in *Veterinary Council of India Vs. Indian Council of Agricultural Research*, that Veterinary Council of India established under the Indian Veterinary Council Act, 1984 is the authority to regulate and oversee the veterinary education in India and that the Indian Council of Agricultural Research has no power or authority to prescribe any eligibility for admission or conduct eligibility test for veterinary courses. In view of this, as we are dealing with the admission into I year B.V.Sc - veterinary course, the reliance placed by the learned Standing Counsel on the guidelines framed by the Education Division, Indian Council of Agricultural

Research is misplaced. Indeed, the case before the Supreme Court arose because of a dispute between the Veterinary Council of India on one hand and Indian Council of Agricultural Research on the other hand as to which should conduct All India Common Entrance Examination for admission into 15% seats in undergraduate courses in the Agricultural Universities insofar as veterinary course is concerned.

16. Sri Siva Reddy then placed reliance on the bulletin of information issued by Veterinary Council of India. The same reveals that in exercise of powers u/s 22(1) read with clause (b) of subsection (1) of Section 21 of the Indian Veterinary Council Act, 1984, the said Council framed its standards of veterinary education - B.V.Sc and A.H. As per the provisions of the said regulations, the Veterinary Council conducts an All India common Entrance test for 15% of the total in each veterinary college. For the rest 85% of the admissions the respective University-college will admit students as per the criteria laid down in sub-clauses (1) to (7) of Regulation-5 Veterinary Council of India-Minimum-Standards of Veterinary Education Degree Course (B.V.Sc. and A.H.) Regulations, 1993 (hereafter called the "Regulations"). The bulletin takes care of 15% of all India quota and not the 85% seats to be filled by the university in accordance with the other regulations. Even though the regulations contained in bulletin of information do not govern the case on hand, it may still be noticed that the rule does not prescribe any maximum upper age limit. The regulation is as under:

"He/She has attained or will attain the age of seventeen (17) years as on the 31st of December of the year of admission. Candidates attaining seventeen years on 1 st of January, 2001 or later will not be eligible to appear at the competitive entrance examination."

17, What all the regulation says is that a student seeking admission to B.V.Sc course for 15% quota must have attained the age of 17 years as on 31st December of the year of admission. Therefore, the Veterinary Council of India Regulations do not govern the admissions to 85% of the seats in veterinary college. As already held by me, the admission to B.V.Sc and A.H. is governed by the rules made by the Government in G.O. Ms. No. 184, dated 20-8-1993. Rule 4 of the said rules eligibility criteria for admission. Sub-rule (2) of Rule 4 provides for age limit for agricultural sciences including Veterinary and Home Sciences which reads as under:

"Candidates should have completed 16 years of age on the date of commencement of admissions as announced by the Committee or on such other date as may be notified by the Committee and there is no upper age limit"

18. In view of the categorical statutory prescription that "there is no upper age limit", the reliance placed by the 2nd respondent on the regulations made by the Veterinary Council for admissions to 15% of All India Quota is misconceived and cannot be sustained. When once the rules are made by the State Government in exercise of the powers under Act 5 of 1983, unless they are inconsistent or

contrary to the rules made by any apex body of India constituted under a special Parliamentary enactment in respect of subject in Entry 66 of List I of VII schedule to the Constitution of India, the rules made under G.O. dated 184 dated 20-8-1983 under the; provisions of Act 5 of 1983 shall apply. The respondent-University has no power or authority to differ with the same.

19. In the result in accordance with Rule 4(2) of the State Rules, it should be held that the petitioner is eligible for being admitted into I year B.V.Sc and A.H. of the 2nd respondent - University. If the petitioner is eligible otherwise and fulfils all the conditions, the 2nd respondent is directed to admit the petitioner forthwith in to B.V.Sc course in accordance with the Presidential Order 1074 and EAMCET Rules. The petitioner is at liberty to approach the 2nd respondent with a copy of this order. This writ petition is allowed. No order as to costs.