
(2003) 01 AP CK 0092

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17463 of 2001

C. Vidyasagar

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 22-01-2003

Acts Referred:

Andhra Pradesh State Seeds Certification Agency Rules, 1976 — Rule 22, 24
Constitution of India, 1950 — Article 12, 226
Seeds Act, 1966 — Section 8, 8A, 9

Citation : (2003) 2 ALD 150 : (2003) 2 ALT 216

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : Nooty Rama Mohan Rao, for the Appellant; Government Pleaders for Co-operation and Agriculture for Respondent No. 1, D. Prakash Reddy and O. Manohar Reddy and N.V. Suryanarayan Murthy and Vinod Kumar Deshpande, for the Respondent

Judgement

Goda Raghuram, J.—The Joint Director, Andhra Pradesh State Seeds Certification Agency, 2nd respondent, has instituted this writ petition seeking the following reliefs in the nature of Writ of mandamus:

- (a) Declaring the action of the respondents 1 and 2 in not providing a channel of promotion to the post of Director, Andhra Pradesh State Seeds Certification Agency, as bad in law;
- (b) Consequently direct the respondents 1 and 2 herein to make a provision for promotion of in-service candidates to the post of Director, Andhra Pradesh State Seeds Certification Agency;
- (c) Also call for the records relating to and connected with the orders issued by the State Government through their G.O. Rt. No. 657, Agriculture and Co-operation (FP.I) Department dated 21st July, 2001 relating to the appointment of the 3rd respondent herein as Director of the Andhra Pradesh State Seeds Certification Agency and quash or set aside the same holding it illegal, unjust

and unsustainable;

(d) Consequently direct the respondents 1 and 2 to consider the claim of the petitioner to the post of Director, Andhra Pradesh State Seeds Certification Agency as he possesses all necessary qualification and experience and pass such other order or orders as it may deem fit to pass in the facts and circumstances of the cases.

2. The petitioner is a Post-graduate having the qualification of M.Sc., (Agriculture) in Plant Physiology, which he obtained in the year 1979. He was initially recruited in the 2nd respondent-Agency on 27-11-1979 as a Seed Certification Officer. A vacancy of Senior Seed Certification Officer was notified for direct recruitment in the year 1988. The petitioner competed in the said recruitment, was selected and appointed as Senior Seed Certification Officer, During December, 1993, he was promoted as Deputy Director. On the creation of the post of Joint Director in the 2nd respondent-Agency, the petitioner having been considered along with other qualified persons, was selected and appointed as a Joint Director on 24-11-1997.

3. The Seeds Act, 1966 (Central Act No. 54 of 1966) (for short "the Act") is an enactment for regulating the quality of certain seeds for sale and matters connected therewith. The Statement of Objects and Reasons, which accompanied the Bill, which was enacted as Act No. 54 of 1966, set out that the Bill was in the interest of regulating the quality of certain seeds such as seeds of food crops, cotton seeds etc., to be sold for purposes of agriculture and in the interest of increased agricultural production in the Nation. The Bill sought to achieve this governmental purpose by the constitution of a Central Seed Committee consisting of representatives of the Central Government and the State Governments, the National Seeds Corporation and other interests, to advice those governments on all matters arising out of the proposed legislation. The other purposes of the legislation, inter alia, are the fixing of minimum standards for germination, purity and other quality factors; testing the seeds for quality factors at the seed testing laboratories to be established by the Central Government and the State Governments; creation of seed inspection and certification service in each State and grant of licences and certificates to dealers in seeds and for restricting the export, import and inter-State movement of nondescript seeds. To effectuate the purposes delineated in the Statements of Objects and Reasons, the Act, inter alia, provides for regulation of sale of seeds of notified kinds and varieties in Section 7 of the Act. Section 8 of the Act empowers the State Government or the Central Government in consultation with the State Government to, by notification in the Official Gazette establish a certification agency for the State to carry out the functions entrusted to the certification agency by or under the Act. Section 8A of the Act, which was introduced into the Act by the Seeds (Amendment) Act, 1972, provides for the establishment of a Central Seed Certification Board, to advice the Central Government and the State Governments on all matters relating to certification

and for co-ordination of functions of the State Seed Certification Agencies established u/s 8 of the Act. The composition of the Central Seed Certification Board, as postulated u/s 8A(2) of the Act discloses a substantial input of expertise in the area of agriculture from the governmental departments as well as the agriculture universities.

4. Having regard to the governmental purposes underlying the enactment of Act No. 54 of 1966 and the statutory obligations that the State Seed Certification Agencies and the Central Seed Certification Board are ordained to perform; and having further regard to the impact of these agencies and the Board, on the public and on public interest, it must be held that having regard to the functions mandated on them by the Act, the public interest impact of the functioning of these agencies the composition of the governing boards of these agencies, these agencies do constitute instrumentalities of the State. The State Seed Certification Agency and the Central Seed Certification Board being the agencies and instrumentalities of the State are consequently liable to compliance with all public law and constitutional law obligations.

5. The 2nd respondent is a body established to perform functions under the Act and pursuant to the enabling provisions u/s 8 of the Act. It has been engendered as a Society under the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 (Act 1 of 1350 F), on 22-4-1976. In G.O. Ms. No. 435, Food & Agriculture (EP-II) Department dated 1-6-1977, the 1st respondent constituted the 2nd respondent and invested it with the power to carry on the functions of Certification under the provisions of the Act, with effect from 1-6-1977. The notification empowers the Officers appointed by or under the 2nd respondent-Agency to carry out the functions of certification agency under the Act, in the territorial jurisdiction of the State of Andhra Pradesh. The Officers are also empowered to grant a "Certificate" after following the procedure laid down u/s 9 of the Act to every seed grower, who makes an application to it. This devolution of statutory said powers to the 2nd respondent shows that the regulatory powers of the State have been channelised and delegated to the 2nd respondent investing it with the characteristic status of an instrumentality of the State.

Analysis of the A.P.State Seed Certification Agency Rules, 1976:

6. The Rules of the Andhra Pradesh State Seed Certification Agency, 1976 (for short "the Rules") delineate the authorities of the Agency, the members of its governing board, the powers of the Board, the grant of powers to frame bye-laws and the functions of the Board apart from house keeping provisions such as in respect of areas like accounts, audit, annual report and the like.

7. Rule 2(a) of the Rules defines "Board" to mean the A.P. State Seed Certification Governing Board; and Rule 2(d) of the Rules states that the "Agency" means the 2nd respondent. Rule 3 of the Rules specifies the Director to be one of the "Authorities of the Agency, along with the Chairman and the Board;

and Rule 5 of the Rules sets out that the Director shall be appointed by the Board on such terms and conditions as may be approved by the Board. Rule 7 of the Rules sets out the composition of the Members of the Board and a perusal of the composition disclose a substantive representation of the Government of the State and its instrumentalities. Rule 22 of the Rules sets out the "Powers of the Board". The grants under this Rule empower the Board of the 2nd respondent to frame, with the approval of Central Seed Certification Board, regulations not inconsistent with the Rules and to prescribe the procedure for appointment of the Officers and other staff of the 2nd respondent. Rule 24 of the Rules delineates the powers of the Board subject to the Memorandum of Association, Rules and Regulations. Sub-rule (a) of Rule 24 of the Rules being relevant and is material extracted as under:

"(a) to appoint all categories of officers and staff for conducting the affairs of the Agency consistent with qualifications specified by the Central Seed Certification Board to fix the amount of their remuneration subject to the budget provision, and to define their duties."

8. Even prior to the constitution of 2nd respondent as a Seed Certification Agency u/s 8 of the Act with effect from 1-6-1977 pursuant to the orders of the State Government in G.O. Ms. No. 435, Food & Agriculture (EP-II) Department dated 1-6-1977, but after its registration as a Society, the governing body of the society considered the aspect relating to appointment to the post of Director as an Agenda Item No. II on 30-5-1977 and it was resolved that the governing board shall specify and approve the academic and experience qualifications required for appointment to the post of Director after ascertaining the position from one or two State Seed Certification Agencies in the country; and that in the meanwhile, both the Government and Director of Agriculture be requested to depute a Senior Officer in the Directorate dealing with the subject temporarily as the Director of the Seed Certification Agency, for a period of three months or till the Board makes its own arrangements, whichever happens earlier.

9. Thereafter, there is some discussion regarding downgrading the cadre post of Director from that of an Additional Director of Agriculture to a Senior Joint Director of Agriculture. Considering this aspect as an Agenda Item No. 2 the Board of 2nd respondent in its 3rd meeting held on 12-9-1977 declined to downgrade the post of Director from the cadre of Additional Director of Agriculture to that of a Senior Joint Director of Agriculture. In this same meeting the governing body also resolved that the Director of Agriculture be requested to nominate a suitable officer, on deputation, to the 2nd respondent on usual terms and conditions; and authorised the Chairman to nominate and appoint any officer of the Department of Agriculture to the post of Director of the 2nd respondent, in consultation with the Director of Agriculture. Other decisions were also contained in this resolution regarding the pay and allowances to the person appointed as Director of the 2nd respondent-Agency.

10. In another resolution, the Board of Governors at their meeting held on

22-7-1978 resolved as under:

"The Board felt that in future no officer in the cadre of Senior Joint Director of Agriculture from the Department of Agriculture who has less than two years of service need be considered for deputation to the Agency to work as its Director. The Officer selected for deputation should be given suitable training in Seed Certification before assume charge as Director of the Agency. It was decided that the Government be requested to take action accordingly."

11. The post of Director of the 2nd respondent fell vacant on 30-6-2001 on the superannuation of the then incumbent Sri N. Vasudeva Reddy, who was an Additional Director of Agriculture deputed to serve as Director of the 2nd respondent. Thereupon, the vacancy was filled by deputing the 3rd respondent, who was working as Joint Director of Agriculture (Admn.,) by the orders of the Government in "G.O. Rt. No. 657, Agriculture & Cooperation (FP.I) Department dated 21-7-2001 (for short G.O. Rt.657)". It is this order that is impugned by the petitioner, who is a Joint Director in the 2nd respondent. He assails the appointment of the 3rd respondent as Director of the 2nd respondent on the ground that the 3rd respondent is only a Joint Director, Graduate in Agriculture, and is unqualified, as he does not have a Postgraduate qualification, he does not belong to any of the four disciplines identified by the Central Seed Certification Board, as requisite qualifications for a person to hold the post of Director of the 2nd respondent viz., qualification in any of the disciplines of (1) Plant Breeding; (2) Plant Physiology; (3) Seed Technicality and (4) Agronomy.

12. The petitioner states that the Central Seed Certification Board at its 13th meeting held on 13-6-1996 specified qualifications for technical posts in the State Seed Certification Agencies, which include qualifications for the post of Director; and that in view of Rule 24 of the Rules, the 1st and 2nd respondents are obligated to appoint as Director only such person who possesses the qualifications specified by the Central Seed Certification Board at it's 13th meeting held on 13-6-1996 as communicated in the Central Seed Certification Board's letter dated 23-12-1996, inter alia, to the 2nd respondent. The appointment of the 3rd respondent is invalid as it is in violation of the resolutions of the 2nd respondent's governing board with regard to the cadre and rank in the agricultural department, from which a person could be deputed as a Director of the 2nd respondent is also the contention of the petitioner.

13. On behalf of the 1st respondent, the Assistant Secretary to the Government has filed a counter affidavit. This counter states that apropos the resolution of the governing board of the 2nd respondent at it's 3rd meeting held on 12-9-1997, the post of Director is required to be filled up by the Chairman of the Board nominating an Officer of the Department of Agriculture, in consultation with the Director of Agriculture. The Secretary, Agriculture Department of the State, being the Chairman of the 2nd respondent, had nominated and appointed the 3rd respondent after consultation with the Director of Agriculture. It is stated that the 3rd respondent has been appointed "considering his capabilities, good

service record" and above all for possessing working experience in the field and administration in the capacity of Zonal Officer as CSCO in the 2nd respondent-Agency earlier on deputation and also taking into consideration his experience as a successful administrator in the Department of Agriculture as Joint Director of Agriculture (Administration). The counter-affidavit of the 1st respondent further asserts that during the previous twenty four (24) years of the 2nd respondent's existence, over nineteen (19) Directors were appointed by the Government to work on deputation, of which, nine (9) were from the cadre of Joint Directors of Agriculture and these officers had handled the responsibilities of the Office successfully. Paragraph-6 of the counter of the 1st respondent admits that the 3rd respondent does not have a Post-Graduation in Agriculture, but was appointed as Director of the 2nd respondent considering his vast experience of thirty six (36) years in various capacities in the Agriculture Department. The counter-affidavit states that at present sufficient Additional Directors and suitable postgraduates in the cadre of Joint Director, Agriculture are not available in the Agriculture Department. Paragraph-6 of the counter of the 1st respondent, however, admits that the 1st respondent is not adhering to the principles or guidelines issued by the Central Seed Certification Board in the matter of filling up the post of Director. The counter also takes the position that by the date of arisal of the vacancy in the post of Director of 2nd respondent i.e., 30-6-2001, the 2nd respondent-Agency had not formulated any promotion channel for the post of Director to consider for promotion any in-service employee. It is also stated that the 3rd respondent, a Senior Joint Director of Agriculture, had remaining service of one year and eleven months for attaining superannuation from the Government service. Paragraph-9 of the 1st respondent's counter reiterates the non-availability of suitable candidates with M.Sc., Agriculture qualification in the Agriculture Department of the State; and on that basis, justifies the appointment of the 3rd respondent, on deputation, as Director of the 2nd respondent.

14. The counter-affidavit of 2nd and 3rd respondents, reiterate the stand and position taken by the 1st respondent. The counter-affidavit of the 3rd respondent in addition states that insofar as the requirement of two years service to consider for deputation as a Director of 2nd respondent is concerned, as the said respondent, as on the date he assumed charge of the post of Director, had a service of one year eleven months and seven days, which is almost equivalent to the required service.

15. The Government of India, Ministry of Agriculture addressed a letter dated 23-12-1996 to the 2nd respondent stating that the Central Seed Certification Board is an Apex Statutory Board constituted u/s 8-A of the Act to advice the Central and State Governments on all matters relating to seed certification and to co-ordinate the functioning of the agencies such as the 2nd respondent-Agency; that the Board at it's 13th meeting held on 13-6-1996 had taken some important decisions of far reaching significance for Seed Certification Agencies and that the Minutes of the Board meeting had already been circulated and are

again being communicated for the guidance of the 2nd respondent. Particular reference has been made in this letter to the decisions of the Central Board relating to the staffing pattern of Seed Certification Agencies and technical qualifications of the staff of the State Seed Certification Agencies. Para-3 of the letter states that the implementation of the foregoing recommendations will go a long way in standardising seed certification procedures and administration all over the country; and that the 2nd respondent is requested to ensure that the recommendations are implemented in right earnest in a time-bound manner within a period of six (6) months; and that the Seed Certification Agency be directed to initiate steps to give effect to these recommendations right away (e.g., amendments to their regulations, recruitment rules etc.,).

16. Item No. 3 of the Minutes of the 13th Meeting of the Central Board held on 13-06-1996 is in respect of the "Normative strength of technical staff for Seed Certification Agencies". The Central Board suggested a staffing pattern for the technical cadre of the State Agencies, including for the post of a Director; and the State Agencies are required to recruit regular staff commensurate with the area/quantity of seed offered for certification in the previous three years. Item No. 4 of these Minutes sets out the recommendations of the Central Board with regard to Technical qualifications of the staff of the State Agencies. For the post of Director, the qualifications recommended are the following:

"Director- M.Sc., in Seed Technology/Plant Breeding/Agril. Botany/Agronomy/Plant Physiology with eight (8) years experience in the seed sector."

17. To consider the recommendations of the Central Board, the 2nd respondent governing board constituted a sub-committee to study the details of various recommendations of the Central Board and submit a report to the governing body for its consideration. The committee so constituted consisted of the Commissioner and Director of Agriculture as Chairman, representation of Seedmen Association, Additional Director of Agriculture (Crops), Managing Director, APSSDC. Joint Secretary to Government in the Finance Department and Director and Member-Secretary of A.P.S.S.C.A. as members. The sub-committee considered the decisions of the Central Board and in its report recommended the staffing pattern in conformity with the staffing pattern specified by the Central Board. In Item No. 2 of its report, the sub-committee recorded its acceptance of the qualifications for technical staff as recommended by the Central Seed Certification Board and recommended that the post of Director, Deputy Director and Chief Seeds Certification Officer be filled either through promotion or by deputation from the State Agriculture Department. The report also recommended qualifications for the post of Seed Certification Officer and Senior Seed Certification Officer by the method of direct recruitment in conformity with the qualifications of these posts specified by the Central Seed Certification Board. No qualifications for the post of Director were, however, specifically recommended, though the 1st sentence of item No. 2 of the subcommittee report records the acceptance of qualifications for technical staff of the State Seed Certification

Agency as recommended by the Central Seed Certification Board.

18. At its 64th Ordinary General Meeting of the governing board of the 2nd respondent, held on 9-9-1997, the report of the sub-committee referred to earlier, was approved by the governing board of the 2nd respondent as Item No. 9 of the Agenda of the governing board. The governing board also passed certain resolutions under specific Items. In respect of Item No. 1 relating to the staffing pattern of State Seed Certification Agencies, the Board of the 2nd respondent approved the Central Seed Certification Board's recommendations in respect of staffing pattern and resolved to amend the existing staffing pattern under Staff Recruitment and Service Regulations specifying various posts at Head Office, Regional Level and Divisional Level, including the post of a Director at the Head Office.

19. On reference to the above legislative, statutory and non-statutory instruments, the respective parties assert their adversarial positions the petitioner claiming consideration of his case for appointment as a Director by the method of promotion and assailing the appointment of the 3rd respondent as Director on the ground that he is not qualified qua the qualifications for the post of Director specified by the Central Seed Certification Board in the decisions at its 13th Meeting held on 13-6-1996 and the respondents claiming that as the decisions of the Central Seed Certification Board regarding qualifications of technical personnel including the Director have merely been recommended for acceptance by the 2nd respondent; and as technical qualifications for the post of Director had not been accepted by the 2nd respondent as on the date of appointment of the 3rd respondent, the validity of the 3rd respondent's appointment could not be considered on the basis of such qualifications.

20. Analysis of the rival contentions:--The Act of 1966 as initially enacted, provided only for establishment of State Seed Certification Agencies to carry out the functions entrusted to them under the Act. Six years after the initial legislation, recognising the need for functional uniformity amongst various State Seed Certification Agencies, the Act has been amended by the introduction of Section 8-A enabling the establishment of the Central Seed Certification Board to advise the Central Government and the State Governments on all matters relating to Certification as also for co-coordinating the functioning of Agencies established u/s 8 of the Act. The composition of the Central Seed Certification Board as provided in Section 8-A(2) of the Act reveals broad based inputs from the Central Government, from persons employed by the State Governments as Directors, experts drawn from agricultural universities, who have worked as Directors of research and such other interests, as in the opinion of the Central Government require to be nominated to the Board, with a minimum of four persons to represent the seed producers or tradesmen. Having regard to the functions ordained on the Central Seed Certification Board under the presents of Section 8-A, the position of the Central Seed Certification Board and the legislative intent underlying the enactment of Section 8-A of the Act, in

particular, the investiture of the power of coordination among several Seed Certification Agencies, on the Central Board, it needs to be held that the Central Board occupies a seminal role in guiding and coordinating the efforts of various State Seed Certification Agencies for effectuation of the purposes of the Act.

21. It is in the context of the above significant role of the Central Seed Certification Board, that the provisions of the Rules of the 2nd respondent, in particular Rules 22 and 24 of the Rules, need be understood.

22. Rule 22 of the Rules empowers the Board of the 2nd respondent to frame Regulations with the approval of the Central Board and in a manner not inconsistent with the Rules; and Rule 24 of the Rules empowers the Board of the 2nd respondent to appoint all categories of officers and staff for conducting the affairs of the Agencies consistent with the qualifications specified by the Central Seed Certification Board. These Rules governing the functioning of the 2nd respondent recognize the significance and expertise of the Central Board and obligate the 2nd respondent to conform to the qualifications specified by the Central Board while appointing officers and staff for the functioning of the 2nd respondent.

23. Earlier herein this Court has already characterised the 2nd respondent as an agency and instrumentality of the State. Being State, the 2nd respondent is obligated to conform to its own Rules or Bye-laws, an obligation flowing from the requirement of the 2nd respondent to act fairly and without arbitrariness. This requirement flows from the principle enunciated by Mr. Justice Frankfurter in *Vitarelli v. Seaton* (1959) 359 US 535, a principle approved by our Supreme Court in *Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation*, and reiterated in *Ramanna Dayaram Shetty v. International Airport Authority of India* (AIR 1979 SC 1626), a principle which also found expression in a Full Bench decision of our High Court in *Sri Konaseema Co-op. Central Bank Ltd. v. N. Seetharamaraju* (AIR 1990 AP 171 (FB)). Apropos this principle, the 2nd respondent is obligated to conform to the mandate of Rule 24 of the Rules, which ordain that appointments to all categories of Officers and Staff for conducting its affairs should be consistent with the qualifications specified by the Central Seed Certification Board.

24. To escape the rigor of the operation of Rule 24 of the Rules, the learned Additional Advocate General appearing for the 2nd respondent contended, a contention reiterated by Sri N.V. Suryanarayana Murthy, learned Senior Advocate appearing for the 3rd respondent, that the decisions of the Central Seed Certification Board taken at its 13th Meeting held on 13-06-1996 were merely recommended for acceptance by the 2nd respondent, by the letter of the Central Government dated 23-12-1996 and further that even the decision of the Central Seed Certification Board to item No. 4, relating to technical qualifications of the staff of the State Seed Certification Agency, is couched in the form of a

recommendation. In specie, the contention of respondents is that what is obligated to be conformed to by the 2nd respondent is specification of qualifications by the Central Seed Certification Board and not its mere recommendations as to qualifications.

25. This contention does not commend itself for acceptance by this Court. This argument fails to address itself to the niceties of language and courtesy of address employed by one institution to the other, nor does it address itself to the seminal and important role of the Central Seed Certification Agency, in the statutory context of Section 8-A of the Act and the co-ordinating role that the Central Board is invested with under the provisions of the Act.

26. State Seed Certification Agencies perform a vital role. The impact of their certification is not confined to the geographical limits of a State. Certified seeds of one State are not prohibited from being sown in other States. The economic interests of agriculturists across the States of the Indian Union and the consuming populace of the whole nation are potentially impacted by the functional efficiency and integrity of even a State Seed Certification Agency. It is in realization of this national impact of State Seed Certification Agencies" functioning, that the Act has incorporated the amendment for establishment a Central Seed Certification Board, not only to advice Federal and State Governments on all matters relating to certification, but specifically to co-ordinate the functioning of the State agencies established u/s 8 of the Act. This co-ordinating role of Central Board, together with the obligation on the 2nd respondent flowing from the specification of Rules 22 and 24 of its Rules, obligates the 2nd respondent to conform to the qualification prescriptions of the Central Seed Certification Board whether couched as recommendations or directions. Though the Central Seed Certification Board, in recognition of the statutory status of the State Seed Certification Agencies, used the expression "recommendations", in recognition of the courtesy warranted to another statutory" agency, it does not diminish the quality of the Central Boards decision from the status of specification to a mere recommendation that may be adopted or discarded by a State Agency at its whim and caprice. Further, paragraph-3 of the letter of the Government of India addressed to the 2nd respondent clearly, though couched as request, directs the 2nd respondent to ensure that the recommendations of the Central Board are "implemented in right earnest in a time bound manner within a period of six (6) months." The letter further is to the effect that the State Agencies, including the 2nd respondent, be directed to initiate steps to give effect to the directions "right away". There is nothing equivocal in this correspondence. Lexicographically specify means to state with exactitude. The Central Board's decisions particularly regarding technical qualifications admit of no inenactitude. They are thus clearly specifications within the meaning of Rule 24 of the 2nd respondents Rules.

27. On the above analysis the conclusion is irresistible that the decisions of the Central Seed Certification Board contained in the Minutes of its 13th Meeting as

communicated to the 2nd respondent in the Government of India's letter dated 23-12-1996, in particular, in relation to qualifications for the post of Director, are specifications of qualifications by the Central Seed Certification Board and are obligated to compliance by the 2nd respondent in respect of any appointment to the post of Director made, after the date of such specifications of qualifications by the Central Seed Certification Board, This obligation is an obligation operating on the 2nd respondent qua Rule 24 of the Rules. On the application of the ""Vitarelli principale" as adopted in the Indian Administrative Law jurisprudence, failure to comply with the above obligation flowing from Rule 24 of the Rules would invalidate the appointment of any Director of the 2nd respondent, made contrary to the qualifications specified by the Central Board.

28. Further the sub-committee appointed by the 2nd respondent to go into the "recommendations of the Central Board" had also unequivocally, in Item No. 2 of its report "accepted the qualifications for the technical staff as recommended by the Central Seed Certification Board." The Board of the 2nd respondent at its 64th Ordinary General Meeting held on 9-9-1979 resolved and approved the report of the sub-committee appointed for the purpose of studying the decisions of the Central Seed Certification Board. In effectuating its approval of the report of the sub-committee, certain resolutions were passed by the governing board of the 2nd respondent, including regarding the staffing pattern of the State Agencies. Much is sought to be made out by the respondents regarding the absence of a resolution with regard to the qualifications. Even if it were to be assumed, exhypothesi, that the decisions of the Central Seed Certification Board require formal approval of the Board of the 2nd respondent (a contention, which does not commend itself to this Court), such approval is clearly present, in the approval by the 2nd respondent Board of the report of its sub-committee, which in turn has unequivocally accepted the qualifications for technical staff as recommended by the Central Board.

29. However, as this Court has come to the conclusion that the decision of the Central Board, as contained in its 13th meeting, are specifications of qualifications, though couched as recommendations; and has further come to the conclusion that these specifications of qualifications are obligated to compliance on the 2nd respondent in view of Rule 24 of its Rules, the contentions on behalf of the respondents regarding the absence of specific approval of qualifications by the 2nd respondent-Board, are contentions, which are irrelevant and misconceived.

30. During the course of hearing on, 23-10-2002, the learned Additional Advocate General Mr. D. Prakash Reddy appearing for the 2nd respondent sought adjournment of the case to enable the governing body of the 2nd respondent to take a decision regarding the technical qualifications for the post of Director of the 2nd respondent in the context of extant resolution in this regard by the Central Seed Certification Board. Learned Additional Advocate-General has placed before this Court the Minutes of the 82nd (Special) Governing Board

meeting of the 2nd respondent held on 18-11-2002, wherein the Agenda Item was regarding the qualification for the post of Director in the 2nd respondent. The decision of the 2nd respondent-Board reads as under:

"The Board, after detailed discussions, after duly taking into account the recommendations of the C.S.C.B., resolved to stipulate M.Sc., (Agr.,) in Seed Technology/Plant Breeding/ Agril., Botany/ Agronomy/ Plant Physiology/ Pathology/Entomology with 8 years experience in the Seed Sector as the requisite qualification for the Post of Director, APSSCA.

The Board also resolved that the post of Director, APSSCA may be filled up by a person in the cadre of Addl. Director of Agriculture having the aforesaid qualification, and if no such person is available, by a Joint Director with minimum of 3 years experience."

31. On behalf of the respondents, it is contended that as the qualifications for the post of Director of the 2nd respondent have been stipulated by the Board of the 2nd respondent at its Meeting dated 18-11-2002, it must follow that these qualifications need be possessed by a candidate for the post of Director in respect of recruitment to the post of Director, subsequent to the date of the decision of the Board of the 2nd respondent i.e., subsequent to 18-11-2002. Consequently, proceeds the argument of the respondents, the appointment of the 3rd respondent, by the impugned order of the 1st respondent in G.O. Rt. No. 657 cannot be invalidated on the ground that the 3rd respondent does not possess the qualifications, which has been stipulated by the Board of 2nd respondent on 18-11-2002. This contention too does not commend itself for acceptance by this Court. Earlier herein, this Court has come to the conclusion that the mandate of Rule 24 of Rules obligates the 2nd respondent to conform to the qualification specifications of the Central Seed Certification Board in making appointments to its officers and staff and further that the decisions of the Central Seed Certification Board taken at its 13th Meeting held on 13-6-1996 constitute specification of qualifications, though couched as recommendations. This Court has also, on the analysis of the report of the sub-committee constituted by the 2nd respondent as well as the resolutions taken at the 64th Ordinary General Meeting of the 2nd respondent's Board on 9-9-1997, concluded that there was an approval in its entirety by the 2nd respondent, of all the recommendations of the sub-committee, which in turn accepted the qualifications for technical staff as recommended by the Central Seed Certification Board. This Court has also, on an analysis of the provisions of the Act and the legislative philosophy underlying Section 8-A of the Act and the establishment of the Central Seed Certification Board, come to the conclusion that the decisions of the Central Seed Certification Board, in particular, in the context of Rule 24 of the Rules obligate compliance by the 2nd respondent with the specifications of qualifications by the Central Board.

32. On the above analysis, nothing material turns upon the stipulation of qualifications for the post of Director by the 82nd (Special) Governing Board Meeting dated 18-11-2002, nor can it on that sole account be inferred that the

specifications of qualifications on 18-11-2002 have a prospective effect and do not reach back to govern the recruitment to the post of a Director, in particular of 3rd respondent effectuated by the impugned governmental order in G.O. Rt. No. 657.

33. It must be pointed out that the conduct of the governing body of the 2nd respondent in failing to conform to the specification of qualifications by the Central Board in making appointments to the post of a Director since 1996 leaves much to be desired. The 1st and 2nd respondents in oblivion to the qualifications prescribed by the Central Board have consistently pursued the exercise of uncanalised and unchartered power of identifying officers of agricultural department" for appointment to the post of Director of this crucial statutory agency, the 2nd respondent. Even if, the 1st and 2nd respondents harbored the mis conception that the decisions of the Central Board constituted recommendations not obligated upon them, it should at least have been alive the responsibility and obligation to prescribe qualifications for this crucial post. Such sensitivity in exercise of public functions are, however, distressingly wanting in the exercise of powers by the 1st and 2nd respondents. Despite filling up the post of Director since the constitution of 2nd respondent in the year 1977 on a continual basis, neither of the respondents 1 and 2 have taken care to frame any Regulations to regulate recruitment to or prescription of qualifications for the post of Director. Incessant exercise of ad hoc resolutions was the substratum of administration in this important area. Occasionally governing board resolutions were passed, including on 12-9-1977, 22-7-1978 and the latest species being on 18-11-2002- to fill up the post of Director by nomination; entrusting the power to the Chairman in consultation with the Director of Agriculture and the latest to fill up the post by deputation of a person in the category of an Additional Director of Agriculture having the qualification stipulated in the resolution dated 18-11-2002 and if no such person is available by a Joint Director with minimum three years experience. The governance history of the 2nd respondent in the area of appointment and qualifications of its Director constitutes a dismal saga of adhocism. This Court is constrained to record that public institutions drawing upon public funds are publicly accountable. They are established to cater to a social necessity recognized by the Executive or the Legislature and are intended to perform the ordained responsibility by having an organizational architecture, designed by experts, to effectuate the mandate upon them. Public institutions are never created or established merely to facilitate the exercise of prerogative of State Actors. As this is an area intrinsic to the administration of the 2nd respondent which vests with the Island 2nd respondents and having regard to the minimal role of the judicial branch in such matters, I find it appropriate to leave it at that with the above observations.

34. It is contended by Sri N.V. Suryanarayana Murthy, learned Senior Advocate appearing for the 3rd respondent that the writ petition itself is not maintainable, as the 2nd respondent is registered under the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 Fasli and as such is not a State or an

instrumentality of the State. I have already rejected the said contention on an analysis of the provisions of the Act, the functions to be performed by the 2nd respondent qua the provisions of the Act, the composition of the 2nd respondent and the fact that what has been obligated on the 2nd respondent is the regulatory power of the State to certify the seeds in a seminal area having inter-state and intra-state potential. On all relevant parameters, this Court has held supra that the 2nd respondent falls to be characterised as an instrumentality of the State. The 2nd respondent being the instrumentality of the State is an authority within the meaning of Article 12 of the Constitution of India and as such is amenable to judicial review on constitutional and public law parameters under Article 226 of the Constitution of India. The contention to the contra urged by Sri Suryanarayana Murthy, learned Senior Advocate does not commend itself to acceptance by this Court.

35. It is further urged on behalf of the 3rd respondent that the petitioner has no locus standi to seek invalidation of the 3rd respondent's appointment nor for a direction to the 1st and 2nd respondents to consider his claim for the post of Director. This objection to the maintainability of the writ petition by the petitioner in the context of the reliefs (c) and (d) is urged on the assertion that there is no extant avenue of recruitment to the post of Director available from the source of in-service candidates either by promotion or recruitment by transfer. In specie the factual foundation for this assertion proceeds as under:

36. The decisions of the Central Seed Certification Board do not contain any specification regarding the method of recruitment to the post of Director. In the context of the presents of the Rules, the power and jurisdiction to identify and specify the method of recruitment to the post of a Director is exclusively consecrated in the Board of the 2nd respondent. This discretion and power has been exercised successively by the Board of 2nd respondent by stipulating that the post of Director shall be filled up by deputation from the Agriculture Department. No doubt, the report of the sub-committee constituted by the 2nd respondent to consider the recommendations of the Central Board, has recommended that inter alia the post of Director be filled up either through promotion or by deputation from the State Agriculture Department, but that recommendation as to the method of recruitment has not been approved by the Board of the 2nd respondent neither at its meeting dated 9-9-1997 nor thereafter. Therefore, the post of Director is not required to be filled up by promotion from amongst officers and staff of the 2nd respondent. On the above factual platform the respondents urge, the petitioner not being the member of a class, which is a feeder category to the post of Director, has no locus standi to urge the invalidation of the appointment of the 3rd respondent to the post of Director.

37. At this juncture, one significant fact requires to be noticed. The counter of the 1st respondent, while at paragraph-6 disclaims that any promotional avenue exists in the extant instruments of the 2nd respondent, which set out a

recruitment process to the post of its Director, states at paragraph-10 that the petitioner was also considered for the said post but the 3rd respondent was selected. It has been the consistent argument of the 2nd respondent, reiterated by the 3rd respondent that in its resolution dated 12-9-1977, the Board of the 2nd respondent has decided to fill up the post of Director only by deputation from the department of Agriculture of the State Government. The resolution dated 22-7-1978, 2nd respondent's-board merely reiterated that in future no officer in the cadre of Senior Joint Director having less than two years of service be considered on deputation to work as Director. Even the latest resolution of the Board of the 2nd respondent dated 18-11-2002 has resolved that the post of Director of the 2nd respondent be filled up by a person in the cadre of an Additional Director of Agriculture and in the absence of availability of such person, by a Joint Director with minimum three years experience. Learned Government Pleader for Agriculture appearing for the 1st Respondent has placed the relevant file for the perusal of this court pertaining to the impugned G.O. Rt. No. 675 which discloses that the petitioner had represented to the Government for consideration of his case for the post of Director and that his name along with one Additional Director of Agriculture and Two Joint Directors of Agriculture have been placed for consideration for appointment as Director. But eventually, it is recorded, after discussing the merits of each candidate, the 3rd respondent has been earmarked for appointment as Director as he "has excellent track record in the Department and APSSCA is facing a financial crisis and requires a capable hand at this juncture." This de facto consideration of the case of the petitioner by the 1st respondent, along with 3rd respondent for appointment to the post of Director, requires rejection of the plea of the 3rd respondent as to the maintainability of the writ petition insofar as the reliefs (c) and (d) are concerned.

38. Sri Nooty Rammohan Rao, learned Counsel for the petitioner would contend that the resolutions of the Board of 2nd respondent dated 12-09-1977 as also the 2nd resolution dated 18-11-2002 are susceptible of an interpretation that the post of Director could also be filled up by drawing an Officer from the specified class of Officers from the Agriculture department and that this resolution does not indicate that consideration of a person already in the service of the 2nd respondent is prohibited. Consideration of the case of the petitioner, as asserted by the 1st respondent and as revealed by the relevant file, posits an inference that administrative construction of the resolutions of the Board of 2nd respondent dated 12-09-1977 is also to the effect that deputation from the Agriculture department, is a legitimate source of recruitment and there is no embargo to follow any other method of recruitment, if it so commends itself to 1st and 2nd respondents. The resolution on one hand and the actual decision making process of the 1st respondent on the other, in the matter of appointment to the post of Director of the 2nd respondent, re-exemplifies the chaotic trajectory of the governance of the 2nd respondent and the absence of continuity and harmony between the resolutions and the decision making process. This Court is constrained to record its hope that 1st and 2nd respondents would

consider replacing the quarter of a century regime of ad hoc governance with a quarter of transparent regime of articulated rules or Regulations for filling up the post of Director of the 2nd respondent in order to subserve the inalienable public interest.

39. In the light of the fact that the 1st respondent has asserted and the file discloses that the petitioner has also been considered for the post of Director, the plea of the 3rd respondent as to the maintainability of the writ petition do not survive on the factual matrix of this case.

40. One of the reliefs urged by the I petitioner is for a direction to the 1st and I 2nd respondents to make a provision for promotion of in-service candidates of post of Director; and for a declaration that the action of the 1st and 2nd respondents in not providing a channel of promotion to the post of Director is invalid. None of these reliefs could be granted by this Court. Method of recruitment and prescription of qualifications are intrinsic policy choices of the Executive and these areas of policy choice are not amenable to curial administration. The needs of the post, the functional responsibilities attached to it, the availability of qualified hands to fill up posts either in the existing departments of the Government, within the 2nd respondent or in the open market; and whether the recruitment should be of candidate fresh from the universities or whether field experience is a sine qua non for the functions to be discharged by the Director, are all matters, which legitimately and exclusively fall in the domain of an expert committee of the relevant Agency consecrated the task of providing the recruitment regulations. Judicial sojourn in such uncharted seas is a perilous enterprise, pejorative to public interest and subversive of the 1st and 2nd respondents jurisdictional autonomy in administering the 2nd respondent. On this premise this Court declines the petitioner's invitation to exercise jurisdiction in this area and issue a mandamus as prayed for.

41. On the analysis above and in the facts and circumstances of the case, the writ petition is disposed of with the following declaration and directions:

(a) That the 2nd respondent is an Agency and instrumentality of the State and as such obligated to conform to all constitutional and public law injunctions and amenable to judicial review under Article 226 of the Constitution of India.

(b) That the technical qualifications prescribed for the post of Director by the Central Seed Certification Board's decision at its 13th meeting held on 13-06-1996 as communicated by the Government of India's letter dated 23-12-1996 constitutes specification of qualifications to the post of Director within the meaning of Rule 24 of the Rules and as such obligate strict and unwavering compliance by the 1st and 2nd respondents in the matter of appointment to the post of Director for the 2nd respondent.

(c) Consequent on the declaration (b) supra, the appointment of 3rd respondent by the order of the 1st respondent in G.O. Rt. No. 657 is invalid as the 3rd respondent admittedly does not possess the specified technical qualifications for

holding the post of the Director of the 2nd respondent.

(d) The relief claimed by the petitioner for a mandamus to the respondents to specify promotion as a method of recruitment to the post of Director being outside the pale of jurisdiction of this Court under Article 226 of the Constitution of India is rejected.

(e) In view of the assertions in the counter-affidavit of the 1st respondent at para-10 that the case of the petitioner has also been considered and as the record produced by the 1st respondent discloses the consideration of the petitioner's case also, it is inferred that the administrative construction of 1st and 2nd respondents is that consideration of in service-candidates is not a prohibited source of recruitment to the post of Director.

(f) Resultantly, the respondents are directed to fill up the post of Director of the 2nd respondent in accordance with the technical qualifications set out in the Central Seed Certification Board decision/resolution taken at its 13th meeting held on 13-6-1996 and in considering the candidates for filling up such post, the respondents may consider the case of the petitioner as also any other eligible candidate as falls within zone of consideration and source of recruitment as per the extant resolutions of the 2nd respondent as hitherto interpreted by the 1st and 2nd respondents.

42. The writ petition is disposed of as above. No order as to costs.