
(2015) 05 P&H CK 0211
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 6784 of 2014 (O&M)

Sandeep and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-05-2015

Acts Referred:

Citation : (2015) 05 P&H CK 0211

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : Ravi Sharma, for the Appellant; Ravi Pratap Singh, A.A.G.,
Advocates for the Respondent

Final Decision : Disposed off

Judgement

Rakesh Kumar Jain, J.—This order shall dispose of a batch of 9 writ petitions bearing CWP Nos. 6784, 7116, 7242, 7254, 7256, 8058, 8138, 12010 and 13861 of 2014, as all are inter-connected. However, with the consent of the parties, CWP No. 6784 of 2014 has been kept as lead case and the facts are extracted therefrom.

2. This petition was initially filed by 27 students-petitioners. However, on 11.06.2014, an application filed by the petitioners No. 11, 16, 17 and 26 was allowed and they were permitted to withdraw from this writ petition.

3. In brief, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the proceedings dated 16.01.2014 (Annexure P-20) of the meeting held under the chairmanship of respondent No. 1, debarring the petitioners from sitting in the 2nd/final year examination of the two years Veterinary and Livestock Development Assistant Diploma course (hereinafter referred to as the "VLDAD") conducted by respondents No. 2 and 3 and for the issuance of a writ in the nature of mandamus, allowing them to sit in the final examination which was scheduled to be held with effect from 16.04.2014.

4. Vide order dated 11.04.2014, the petitioners were permitted to sit in the 2nd

year examination of VLDAD course, making it clear that the arrangement was provisional and the petitioners would not claim any equity on the basis of the interim order.

5. The petitioners are the students of respondent No. 3, managed by the Jan Shakti Charitable Trust, Rohtak (hereinafter referred to as the "Trust"). Respondent No. 3 offered the VLDAD course for the session 2011-12 and as per their prospectus, the eligibility conditions, prescribed for admission in the VLDAD course, are as under:

"Pre-requisites for admissions

A. VLD DIPLOMA COURSE

1. He should have passed 10+2 in any stream from recognized Board/University with 50% marks in aggregate (40% for SC/BC only).

2. Age as on 31.12.2011 should not be less than 17 years."

6. All the petitioners including petitioner No. 14, who belongs to the Backward Class category, were allegedly eligible as per the criteria laid down for admission and took admission as regular students after paying the requisite fee of Rs. 1,25,000/- each. After clearing first year of the course, they were promoted to 2nd year. The petitioners attended the classes for the 2nd/final year and were to appear in the final year examinations which were scheduled to be held in the month of April 2014. However, they were not allowed to sit in the exams on the ground of being ineligible for admission in the VLDAD course for not fulfilling the admission criteria, set down by respondent No. 2, both on the ground of academic qualifications and age. It is also averred that in Rule 27 of the Haryana Veterinary Headquarters and Field (Group-C) Service Rules, 1999 (hereinafter referred to as the "Rules"), as amended upto date, no higher percentage of marks and age is required for securing the job of Veterinary Livestock Development Assistant as all that has been required is two years VLDAD course from the University or any institution recognized by the State of Haryana.

7. The writ petition was filed on 03.04.2014 when the 2nd/final year examinations were scheduled to be held on 16.04.2014. It was listed on 07.04.2014 for preliminary hearing and on that date, notice of motion was issued by this Court for 11.04.2014 and on the next date of hearing, when the respondents had appeared and sought time to file response, the petitioners were allowed to sit in the examinations provisionally.

8. The petitioners have challenged the decision of respondent No. 1 dated 16.01.2014 on the ground that it was the duty of respondents No. 2 and 3 to verify the eligibility of the petitioners before allowing them to sit in the 1st year examination and declaring its result, they should not have been given admission in the 2nd/final year after charging a hefty amount of Rs. 1,25,000/- from each student and after attending the classes for the whole year, they should not be debarred from appearing in the 2nd/final year examinations just at the end of

the academic session. The petitioners have, thus, challenged the impugned order/ decision on the ground of being illegal and arbitrary.

9. In the reply filed by the respondent No. 1-State, it is averred that No Objection Certificate was issued to the Trust for establishing Veterinary College in Private Sector at village Bahu Akbarpur, Rohtak vide memo dated 04.04.2011. The Trust established the International Institute of Veterinary Education and Research and it was allowed to run the VLDAD course with one of the following conditions:

"50% of the total seats shall be filled up from the merit list prepared by the college of Veterinary Sciences, LLRUVAS, Hisar for Veterinary and Livestock Diploma Course on the basis of the entrance test conducted by the above college for the year concerned and remaining 50% seats may be filled up by the Management of your institution on the basis of inter-se merit of the candidates".

10. It is further averred that respondent No. 3, without waiting for the guidelines of admissions from the Government or the Lala Lajpat Rai University of Veterinary and Animal Science, Hisar (hereinafter referred to as the "University"), filled the seats on its own conditions. The fee structure was circulated to the college on 04.11.2011 and the guidelines for admission were issued to the Dean, College of Veterinary Science of the University on 08.11.2012 for the purpose of conducting the VLDAD course by a private institute, therefore, the respondent No. 3 could not have started admissions before circulation of admission guidelines. The Dean, College of Veterinary Science of the University, vide letter dated 03.10.2013, apprised respondent No. 1 that respondent No. 3 has not followed the rules and regulations of the University and the admissions for the sessions 2011-12 and 2012-13 have been given on their own and not through the University. Respondent No. 3 did not adhere to the minimum required standards issued by respondent No. 2 because as per the prospectus issued by the University, for the purpose of admission to the VLDAD course a candidate should not be less than 17 years and not more than 22 years of age on 31.12.2011 for session 2011-12 and 31.12.2012 for the session 2012-13. However, in the case of reserved category of SC/BC/OBC/EBC, there would be relaxation of 5 years in upper age and further for in-service candidates, the maximum age limit is 50 years, but the admissions were given to some of the students by respondent No. 3, who did not meet the age requirement given in the University prospectus. On the basis of the letter dated 03.10.2013, received from the Dean, College of Veterinary Science of the University, a meeting was called under the chairmanship of respondent No. 1 on 16.01.2014 for deciding the issue of conducting the examination and it was decided that the University would conduct the exams of candidates of the VLDAD course strictly in accordance with the conditions imposed on the institution while granting NOC and the minimum standards relating to the minimum and maximum age limits, education qualification, as maintained in the College of Veterinary Science of the University, shall be maintained by the private

institutions also. It was decided that the exam of the students of this private institution who fulfill the above standards shall be conducted under full supervision of the College of Veterinary Science of the University. Insofar as Rule 27 of the Rules is concerned, it is averred that the Rules pertain to the appointment of VLDAD in the Department of Animal Husbandry and Dairying has nothing to do with the admission in the College.

11. In the reply filed by respondent No. 2, it is averred that the Lala Lajpat Rai University of Veterinary and Animal Sciences, Hisar Act, 2010 was notified by the Government of Haryana on 07.04.2010, which came into force with effect from 01.12.2010 as per notification No. 4453/AH-1-2010 dated 30.12.2010. According to Section 4(1) and (2) of the said Act, no person or institution, other than the University or affiliated college, shall confer, grant or issue or hold himself or itself out as entitled to confer, grant or issue any degree, diploma, certificate or an academic distinction in the specialized area of knowledge assigned to it within the territorial jurisdiction of the University. The relevant provisions of the Act are reproduced as under:

"Section 4:

(1) Notwithstanding anything contained in this Act or any other State Law for the time being in force, no person or Institution, other than the University or affiliated college, shall confer, grant or issue or hold himself or itself out as entitled to confer, grant or issue any degree, diploma, certificate or an academic distinction in the specialized area of knowledge assigned to it within the territorial jurisdiction of the University which is identical with or is a colourable imitation of any degree, diploma, certificate or an academic distinction conferred, granted or issued by the University.

(2) The contravention of the provisions of sub-section (1) shall be an offence punishable with imprisonment upto three years or with fine upto five thousand rupees or with both and shall also be dealt with, in the manner, as may be prescribed."

12. It is further averred that respondent No. 3 had allowed admission in illegal manner as it was not affiliated by respondent No. 2 for running the VLDAD course for the sessions 2011-2012 and 2012-13. All the petitioners belong to the batches who were granted admission by respondent No. 3 without getting affiliation from the University and as such, the respondent No. 2 was not legally bound to conduct examinations of such students, admitted by respondent No. 3 in an illegal manner. It is further averred that respondent No. 3 has been given affiliation by respondent No. 2 vide Dean COVS's Memo No. COVS/2013/3118 dated 05.06.2013 for the session commencing from the year 2013-2014 onwards. It was further averred that though the respondent No. 2 had absolutely no responsibility to conduct examinations of the students of VLDAD course because they were illegally admitted by respondent No. 3 for the sessions 2011-2012 and 2012-2013 but since the NOC was granted by respondent No. 1

to respondent No. 3 and keeping in view the interest of the students, the respondent No. 2-University provisionally conducted the examination for the 1st year students, who otherwise were illegally admitted by respondent No. 3. The record of the students admitted by respondent No. 3 for the sessions 2011-2012 and 2012-2013 was checked by the University and it was found that number of students were either having less than 65% marks in the matric or were having less than 50% marks in 10+2 and were not fulfilling the criteria of age.

13. After deficiency was found by respondent No. 2 in regard to admission of the students by respondent No. 3, the matter was brought to the notice of respondent No. 1 and thereafter, a meeting was held on 16.01.2014 under the chairmanship of respondent No. 1 wherein a decision was taken that respondent No. 2 would conduct the examination of the candidates of VLDAD course only after successful completion of the course and strictly in accordance with the conditions imposed on the institute while granting NOC for conducting the VLDAD course. It has also been reiterated that the petitioners are the students who were granted admission by respondent No. 3 in the VLDAD course without getting affiliation from respondent No. 2-University and who do not fulfill the minimum norms prescribed by the University in its prospectus for the session 2011-2012. It is also averred that the University is not bound to conduct examination of the students who were illegally admitted by respondent No. 3, without getting any affiliation from the University and in violation of the norms prescribed in the prospectus of the University.

14. In the reply filed by respondent No. 3, it is averred that respondent No. 3-College was established after No Objection Certificate was given to the Trust by respondent No. 1 to run the degree course. Thereafter, it received a clarification on 25.07.2011 from the Director General, Animal Husbandry and Dairying, verifying that the Trust can also run VLDAD course as well. At the time of establishment of college, there were no affiliation rules in existence for the diploma course, but on the application of the Trust, provisional affiliation was granted to respondent No. 3 on 26.09.2011. Thereafter, on the basis of the provisional affiliation granted on 26.09.2011 and the letter/clarification dated 25.07.2011, respondent No. 3 invited applications for the diploma course for the academic session 2011-2012 and laid down the conditions, namely, minimum age and marks obtained in 10+2 class. It is further averred that the students admitted in the VLDAD course for the academic session 2011-2012 appeared in the 1st year examination and after having been successful, they were promoted to the 2nd year. It is further averred that vide another letter dated 04.11.2011, the Director General, Animal Husbandry and Dairying, Haryana, also gave fee structure for the diploma course but the said fee structure was subject to the condition that the respondent No. 3-institute will not admit more than 90 students in one batch in a year for VLDAD course in a year and will not admit more than 40 students in Veterinary Technician Diploma Course in a year, with a further condition that 50% of the total seats shall be filled up from the merit list prepared by the College of Veterinary Sciences of the University on the basis of

entrance test conducted by the College of Veterinary Science of the University and the remaining 50% seats shall be filled up by the Management of respondent No. 3 on the basis of inter-se merit of the candidates. It is further averred that after promoting the students of 1st year, the respondent No. 3 requested the University to advertise the seats in their prospectus, which was refused by the University. Thereafter, on the directions of the Director General, Animal Husbandry and Dairying, Haryana, the matter was again taken up but the University again refused to advertise 50% seats on the ground that the prospectus was already in print. It is alleged that although 50% seats were not advertised by the University in their prospectus but after conducting the examination, the University sent list of successful students and out of them, 14 students were admitted. It is further averred that after the admission process for the academic year 2012-2013 was over, the Government framed guidelines for affiliation for VLDAD course conducted by the private institutions in the State, which are reproduced as under:

"College of Veterinary Sciences, Lala Lajpat Rai University of Vety. and Animal Sciences, Hisar

Subject: Norms, Procedure and guidelines for affiliation of institutions offering/ desirous of starting Veterinary and Livestock Development diploma course in the State of Haryana.

- i) Institutions offering diploma courses in Veterinary/Animal Sciences in the State of Haryana shall follow the procedures and guidelines laid down by the College of Veterinary Sciences, LLRUVAS in order to maintain uniformity and to ensure high quality of training.
- ii) The institutions desirous of starting the diploma courses shall have to first obtain a No Objection Certificate from the Govt. of Haryana, Department of A.H. and Dairying, the no objection certificate is only an in principle permission of the state government to approach the university for affiliation and does not confer any legal right on any institution to be affiliated to the university unless it is found to be fulfilling all eligibility conditions prescribed for such affiliation.
- iii) After obtaining the No Objection Certificate from the state government, the institution shall have to apply to the Dean, College of Veterinary Sciences, LLARUVAS within 120 days of obtaining the NOC for pre-affiliation inspection of the institute. The institution shall be required to deposit along with the application initial affiliation fee of Rs. Two and a half lakhs and an inspection fee of Rs. 50,000/-. If affiliated, the institution shall have to pay an annual affiliation fee of Rs. 50,000/- in every subsequent year. The Dean may entertain an application for renewal beyond a period of 120 days in special cases. The pre-affiliation inspection by the university will be intended to evaluate infrastructural, technical, clinical, academic and financial capability of the institution in keeping with the requirements prescribed. The applicant institution shall not start any academic activity before getting the affiliation from the university.

iv) The first inspection has to be necessarily carried out before the 31st March preceding the start of an academic year followed by another inspection before the start of the academic session, renewal of affiliation in subsequent years will be subject to a recommendation by a Committee constituted by the Dean, College of Veterinary Sciences of the purpose.

v) The Committee may inspect all the documents and premises/facilities pertaining to the financial strength, the infrastructure facilities and the academic and technical capabilities of the institution. The institution shall, besides demonstration of adequate financial strength, furnish a bank guarantee of Rs. Fifty lakh to the Dean, College of Veterinary Sciences. In the event of failure by the affiliated institution failing to complete a course after having started the course, the money in the form of bank guarantee shall be forfeited by the Dean, College of Veterinary Sciences, LLRUVAS, Hisar.

vi) The academic standards with respect of quality of teaching and the minimum essential infrastructure such as Laboratories, Lecture Halls, Sports ground, Computer Lab, Multimedia Lab, Teaching Animal Farm and Clinic etc. shall be governed by the College of Veterinary Sciences, LLRUVAS and for the present as given in Annexure-1.

vii) The intake capacity for VLDD diploma course shall be a maximum of 60 students per batch or as approved by the university. However, the diploma in Veterinary Laboratory technology will have strength of not more than 30 students so as to ensure adequate "hands on" practice.

viii) Admission to different diploma courses in the affiliated institutions will be on the basis of a Common Entrance Test conducted by the College of Veterinary Sciences, LLRUVAS, Hisar. Students desirous of seeking admission in affiliated institutions shall have to apply to the Dean, College of Veterinary Sciences for admission and central counseling as per procedure given in the university prospectus of that particular academic year.

ix) No student who has not qualified the Common Entrance Test shall be admitted to any diploma course under any category.

x) All the students admitted in the affiliated institutions shall be register themselves with the College of Veterinary Sciences, LLRUVAS after paying the prescribed registration fee in the 1st year of admission, as per schedule prescribed by the college.

xi) The admission fee for students admitted to affiliated institutions shall be as fixed as per procedure laid down by the State Govt. or as notified by the State Government.

xii) The entire process of conduct of examinations, evaluation and related issues for all diploma courses shall be under the control and supervision of the Dean, College of Veterinary Sciences, LLRUVAS, Hisar.

xiii) The students of the affiliated institutions shall have to pay the prescribed examination fee to College of Veterinary Sciences, Hisar.

xiv) After successful completion of course, diploma certificates shall be issued to students by the College of Veterinary Sciences, LLRUVAS, Hisar.

xv) Rules, Regulations and guidelines as framed by the Board of Studies, College of Veterinary Sciences, Hisar shall also be applicable to the students of the affiliated institutions (Annexure-2).

xvi) The minimum faculty strength for a Diploma course for a batch of sixty students shall be one Principal and four faculty members having at least BVSc degree and two years of relevant experience. The Principal must possess a Master's degree (MVSc) in any discipline of Veterinary Sciences with a minimum of 15 years experience in teaching, research, extension or field service. The qualifications may, however, be relaxed in exceptional cases by the university if the university is satisfied that suitable candidates are not available for a particular teaching position. The upper age limit for the faculty shall be 68 years. The faculty shall be appointed on a full-time basis. The optimum teacher-students ratio should be maintained around 1:10; however, if the institute is running more than one diploma course, then there shall be appropriate increase in the faculty strength of the institute.

xvii) The admission process for Diploma Courses must be completed before 30th September of each academic year and no admission will take place after this date. The academic calendar as prescribed by College of Veterinary Sciences, LLRUVAS and instruction/clarifications on it issued by the University shall be followed by all affiliated institutions.

xviii) The affiliated institution shall have its in house equipped and functional clinics with at least 30 outdoor cases per day. If the in house clinics are not fully equipped or functional to the satisfaction of the university and if the university grants a provisional affiliation to an institution in view of this shortcoming, then the affiliated institution will have to make arrangement for attachment of its students in a suitable Government Veterinary Hospital and get the arrangement approved by the university, provided the number of outdoor cases in such hospital is sufficient.

xix) The Supervisory-cum-Expert Committee for Diploma courses at the College/ University level shall be headed by the Dean, College of Veterinary Sciences, LLRUVAS, Hisar, with Director, Clinics, HOD's of Pathology, Microbiology, and LPM/ APT departments as members. The Associate dean of the university will be Member Secretary of the committee.

xx) It shall be mandatory for all affiliated institutions undertaking any diploma course to fulfill the requirements of minimum infrastructure, equipments and other facilities required for the course as prescribed by the Dean, College of Veterinary Sciences, Hisar.

Note:

In case of institutions which have started academic activities before these guidelines were issued, on the basis of NOC issued by the State Govt., affiliation may be given provisionally for such batches subject to complete compliance through verification of academic standards pertaining to the period of teaching already completed before applying for affiliation. While the internal assessments previously awarded to students by an institution applying for affiliation may be recognized for successful completion of the course by students, all students of such affiliated institutions shall have to appear and clear the annual examinations of 1st and 2nd year conducted by the University so as to complete the diploma course successfully.

In case a provisional affiliation is granted to any institution in view of some deficiency in infrastructures, full compliance in respect of infrastructure will have to be completed within two years of provisional affiliation, failing which the affiliation granted to such non complying institution shall be withdrawn. However, provisional affiliation will not be granted if there are deficiencies in academic and clinical standards."

15. Respondent No. 3, while referring to the note in the aforesaid guidelines, has averred that it applied for affiliation on 20.04.2013 for the VLDAD course and on their request, inspection was carried out and finally provisional affiliation was granted vide letter dated 05.06.2013. After grant of affiliation, the respondent No. 3 received a letter from respondent No. 2, informing that the diploma to the students admitted by respondent No. 3 for the academic year 2011-2012 would be granted only after they appear in the examination conducted by the University. It is alleged that the students of 2011-2012 batch appeared and their result was also declared. Before promoting the students of 2011-2012 batches, their credentials were sought by the University, which were sent and were verified and cleared by the University and, thereafter, their result was declared and they were allowed to be promoted for the next year. The said examination was conducted by the University on the deposit of requisite examination fee amounting to Rs. 1,34,550/- vide receipt No. 18776 dated 12.06.2013. It is alleged that the amount so deposited was for examination to be conducted for 1st year and 2nd year of 2011-2012 batch students and first year of 2012-2013 batch students. It is further averred that respondent No. 3 invited applications for admission to 2012-2013 batch and in similar manner, granted admissions to the students out of which 50% seats were to be filled up from the Management Quota and 50% seats were to be filled up through the list of candidates clearing examination conducted by the University.

16. The petitioners have filed rejoinder to the reply filed by respondent No. 2, in which it is averred that respondents No. 1 and 2 had allowed respondent No. 3 to issue the prospectus, advertisement/admission notices appeared in the newspaper, in response thereto the petitioners had applied for admission in the VLDAD course and they have been allowed to sit in the 1st year examination

which they have passed. Respondent No. 2 is, thus, now estopped from raising objection in regard to the conduct of exams of 2nd/final year of the petitioners and to confer the diploma.

17. The petitioners have also filed an application bearing CM No. 4457 of 2015 for placing on record the prospectus (Annexure P-24) for admission to the session 2014-15 issued by respondent No. 2 and CM No. 4969 of 2015 for placing on record the advertisement dated 08.07.2013 (Annexure P-26) issued by the Haryana Staff Selection Commission, inviting applications for the post of VLDAD and a judgment (Annexure P-27) of the Single Judge of this Court. Both the applications are allowed, as prayed for, and the documents mentioned therein are taken on record.

18. Counsel for the petitioners has argued that it was the duty of respondent Nos. 2 and 3 to verify the eligibility of the students at the stage of admission and before allowing them to sit in the 1st year examinations but once they have been allowed to sit in the 1st year examinations and result thereof has been declared and the petitioners have been given admission in the 2nd year after charging requisite fee, they are estopped by their own act and conduct and cannot deny the petitioners to complete their diploma. It is also submitted that the petitioners have not misled or misrepresented in regard to their eligibility rather there was an implied consent of respondent Nos. 1 and 2 to respondent No. 3 on the basis of which the advertisement was issued by respondent No. 3 in the newspapers on the basis of which the petitioners applied and got the admission.

19. While supporting the petitioners, counsel for respondent No. 3 has argued that the Trust has established the college on the basis of NOC given by respondent No. 1 on 04.04.2011 and permission to run the VLDAD course was granted on 25.07.2011. Since there were no affiliation rules in existence at the time when the permission was granted to run the VLDAD course on 25.07.2011 as the affiliation guidelines/rules have been circulated on 05.06.2013 in which it is also provided that in case of institutions which have started academic activities before the guidelines were issued, on the basis of NOC issued by the State Govt., affiliation may be given provisionally for such batches subject to complete compliance through verification of academic standards pertaining to the period of teaching already completed before applying for affiliation.

20. On the other hand, counsel for respondent No. 1 has argued that though the NOC was issued on 04.04.2011 and it was clarified vide letter dated 25.07.2011 that respondent No. 3 can run the VLDAD course in their college, but at the same time it was specifically mentioned in the NOC that the admission and fee structure shall be approved by the State Government and 50% of the total intake will be State quota seats and the remaining 50% will be management quota seats including 15% NRI quota seats. Even at the time when the fee structure was provided on 04.11.2011, it was mentioned therein that 50% of the total seats shall be filled up from the merit list prepared by the College of Veterinary Sciences, LLRUVAS, Hisar for VLDAD course on the basis of the entrance test

conducted by the above college for the year concerned and the remaining 50% shall be filled up by the Management of the institution on the basis of inter-se merit of the candidates approaching for the course. However, respondent No. 3 did not care to maintain the minimum educational qualification which has also been mentioned in the note of the guidelines dated 05.06.2013 in which it is provided that the affiliation may be given provisionally for such batches subject to complete compliance through verification of academic standards pertaining to the period of teaching already completed before applying for affiliation.

21. Similarly, counsel for respondent No. 2 has argued that as per Sections 4(1) and (2) of the Act, the diploma cannot be granted without there being any affiliation and the petitioners belong to the batches which were started without getting any affiliation from respondent No. 2, therefore, it was not bound under any law to conduct the examination of the petitioners admitted by respondent No. 3 in an illegal manner. It is also argued that despite the illegal admissions on account of NOC having been given by respondents No. 1 to respondent No. 3, the provisional exams were conducted by respondent No. 2 for the 1st year students but when it was found that the petitioners were not meeting the eligibility criteria either of educational qualifications or of the age, the matter was referred for the decision of the government who has decided vide the impugned order/letter dated 16.01.2014 that the minimum standards relating to age and educational qualification have to be maintained and the students admitted by respondent No. 3, who fulfill the minimum standards of age and educational qualification can take their exams under the full supervision of the College of Veterinary Science of the University. Thus, it is submitted that the petitioners cannot claim misplaced sympathy of the Court and has relied upon a decision of the Supreme Court in the case of Mahatma Gandhi University and Another Vs. Gis Jose and Others, (2008) 12 SCALE 356 .

22. I have heard learned counsel for the parties and perused the available record with their able assistance.

23. In this batch of 9 writ petitions, some petitions have been filed by the students only for declaration of result and some have been filed for challenging the decision of the government dated 16.01.2014.

24. The basic issue involved is as to whether the order dated 16.01.2014 is illegal and is liable to be quashed. Though I have given the facts in detail, culled out from the pleadings available on record, but it would be relevant to refer to certain more documents which form the genesis of the dispute in these cases.

25. Respondent No. 1, on the request of the Trust, issued NOC for establishment of the Veterinary College in the private sector on 04.04.2011. It would be relevant to refer to the conditions contained in the NOC dated 04.04.2011, which are as under:

"1. the college shall obtain recognition from the Veterinary Council of India, New Delhi and seek its approval before the students are admitted to the first year of

B.V.Sc. and A.H.

2. the proposed college shall have to be affiliated to the Lala Lajpat Rai University of Veterinary and Animal Sciences, Hisar.

3. no financial assistance/grant will be given to the trust by the State Government for setting up of this Veterinary College.

4. the trust shall establish a Veterinary Hospital and other infrastructure as per the guidelines of the Veterinary Council of India to meet the requirement of the College and area.

5. the admission and fee structure for the college will be approved by the State Government. 50% of the total intake will be State quota seats. Remaining 50% will be management quota seats including 15% NRI quota seats.

6. the institution shall at all times abide by the conditions laid down by the government and State Veterinary Council as well as Veterinary Council of India."

26. Thereafter, on 25.07.2011, respondent No. 1 informed respondent No. 3 clarifying that it may also run the VLDAD course in its college. The relevant portion of the letter dated 25.07.2011 is as under:

"Kindly refer to your letter received in this office on 17.06.2011 regarding grant of N.O.C. for conducting Veterinary Livestock Development Diploma Course. In this context, it is to inform that you have been granted "No Objection Certificate" for establishing a Veterinary College in private sector as per the project plan submitted by you which contains the B.V.Sc. and A.H. and V.L.D.D. Courses. It is, therefore, clarified that as per your project plan, you may also run the Veterinary Livestock Development Diploma in your college."

27. Thereafter, respondent No. 1 issued the fee structure for the VLDAD course on 04.11.2011. The relevant portion of the fee structure is as under:

"Regarding the subject cited above, it is intimated that the Government has approved following fee structure for these courses:-

28. The above fee structure is subject to the following conditions:-

1. That your institution will not admit more than 90 students in one batch for Veterinary Livestock Development Diploma Course in a year.

2. That your institution will not admit more than 40 students in one batch for Veterinary Technician Diploma Course in a year.

3. 50% of the total seats shall be filled up from the merit list prepared by the college of Veterinary Sciences, LLRUVAS, Hisar for Veterinary and Livestock Diploma Course on the basis of the entrance test conducted by the above college for the year concerned and remaining 50% seats may be filled up by the Management of your institution on the basis of inter-se merit of the candidates approaching you for this course.

4. For Veterinary Laboratory Technician course, the seats will be filled up on the above said criteria as mentioned in condition No. 3 above, however, the basic qualification for this course shall be 10+2 with Science Stream."

29. According to Clause 5 of the NOC letter dated 04.04.2011, the admission and fee structure was to be approved by the State Government. 50% of the total intake by the college was on the basis of State quota seats and remaining 50% was of the Management quota seats including 15% of the NRI quota seats. Further, Clause 3 given in the fee structures dated 04.11.2011 provides that 50% of the total seats of the VLDAD course would be filled from the merit list prepared by the College of Veterinary Sciences of the respondent No. 2- University on the basis of the entrance test conducted by the University for the year concerned and the remaining 50% shall be filled up by the Management of respondent No. 3 on the basis of inter-se merit of the candidates approaching for the course.

30. It is also not disputed that respondent No. 3-college has laid down its own eligibility criteria for admission in the VLDAD course as per which a student was required to have passed 10+2 in any stream from recognized Board/University with 50% marks in aggregate (40% for SC/BC only) and should not be less than 17 years of age as on 31.12.2011, whereas respondent No. 2 laid down the following eligibility criteria for the sessions 2011-2012 and 2012-2013:-

"PROSPECTUS FOR SESSION 2011-2012: CLAUSE 2.18:

(i) 50% Marks (40% for SC Candidates only) in 10+2 Class.

(ii) 65% Marks (55% for SC Candidates only).

NOTE:

(1) The candidate must have passed in all subjects taken by him in 10th and 10+2. If a candidate has failed in any of the subjects in 10th or 10+2, he will not be eligible for admission.

(2) Percentage of matric marks will be calculated by including marks obtained in all the subjects.

CLAUSE 2.19

The candidates should not be less than 17 years and more than 22 years of age on 1st June 2011. However, for SC and BC candidates, there will be relaxation of 5 years towards maximum age. No age bar is there for in-service candidates."

"PROSPECTUS FOR SESSION 2012-2013: CLAUSE 2.15:

(i) 50% Marks (40% for SC Candidates only) in 10+2 Class.

(ii) 65% Marks (55% for SC Candidates only).

CLAUSE 2.16

The candidates should not be less than 17 years and more than 22 years of age as on 31st of December 2012. However, for SC and BC candidates, there will be relaxation of 5 years towards maximum age. No age bar is there for in-service candidates."

31. Much reliance has been placed upon the note appended to the affiliation regulation dated 05.06.2013. According to this note, which is also reproduced in the earlier part of this judgment, the institutions which have started academic activities before the guidelines were issued, on the basis of NOC issued by the State Govt., were to be given provisional affiliation only for such batches, subject to complete compliance through verification of academic standards pertaining to the period of teaching already completed before applying for affiliation. This note is not of any help to respondent No. 3 in any manner because it clearly stipulates that the institute, which has been given NOC and is to be provisionally affiliated, has to conform to the complete compliance of the academic standards. This is also impugned decision taken by the Government on 16.01.2014, which reads thus:

"The above institutions gave admission to the candidates for Veterinary Livestock Development Diploma Course in the year 2011 and 2012. The issue for the award of Diploma Certificate to these students at length was discussed in the meeting and it was decided that the LUVAS, Hisar will conduct the exam of the candidates of Veterinary Livestock Development Diploma Course strictly in accordance with the conditions imposed on the above mentioned institutions while granting NOC for conducting the VLDD course in their Institutions. The minimum standards relating to maximum age and minimum educational qualifications as maintained in the Veterinary Livestock Development Diploma course in College of Veterinary Sciences, LUVAS, Hisar shall be maintained by the private institutions, too.

It was decided in the meeting that the examinations of students of these two private institutions who fulfill the above standards be conducted under full supervision of College of Veterinary Sciences, LUVAS, Hisar."

32. According to the aforesaid decision, the benefit was given to the students who were fulfilling the minimum standards of the age and educational qualification as maintained by the College of Veterinary Sciences of the respondent No. 2-University and the Committee decided to take examinations of all those students admitted by respondent No. 3-institute who would be fulfilling the above standards of age and educational qualification.

33. Thus, there is no question of estoppel because not only respondent No. 3 had violated the terms and conditions of the NOC dated 04.04.2011 while giving admission as it did not adhere to the 50% intake of State quota seats but also the minimum standards relating to maximum age and minimum educational qualifications as maintained in the VLDD course in the College of Veterinary Sciences of the respondent No. 2-University. Therefore, the proceedings dated

16.01.2014 is without any blemish and cannot be interfered with.

34. However, the students who fulfill the minimum standards relating to maximum age and minimum educational qualifications as maintained in the VLDAD course in the College of Veterinary Sciences of the respondent No. 2-University are allowed to appear in the examinations and it is further directed to declare the result of those students who had already appeared in the examinations, subject to fulfilling the aforesaid minimum standards of educational qualification and age criteria set out by the respondent No. 2-University.

35. Insofar as the students/petitioners who did not fulfill the minimum standards relating to maximum age and minimum educational qualifications as maintained in the VLDAD course in the College of Veterinary Sciences of the respondent No. 2-University cannot claim any equity even after taking the provisional examinations either conducted by the University or under orders of this Court as the basic qualification for admission and age criteria cannot be compromised and in support thereof, the judgment of the Supreme Court in the case of Mahatma Gandhi University and Another Vs. Gis Jose and Others, (2008) 12 SCALE 356 can be referred to.

36. However, the students/petitioners, who have been taken for a ride by the respondent No. 3-institute without disclosing all the relevant facts with regard to minimum standards relating to maximum age and minimum educational qualifications as maintained in the VLDAD course by the respondent No. 2-University which they do not have, are held entitled to claim damages and refund of their fee, in accordance with law.

37. All the writ petitions are hereby disposed of in the aforesaid terms.