

HIGH COURT OF DELHI**Bench: Chief Justice Satish Kumar Sharma And Justice Sanjeev Narula****Date of Decision: 07 November, 2023****W.P.(C) 11758/2019, CM APPL. 13702/2023**

DR. AJAY PAL

..... Petitioner

versus

UNION OF INDIA AND ORS.

.... Respondents

Legislation:**Central Civil Services (CCS) Rules****Section 8(1)(j) Right to Information Act, 2005,****Article 226 of the Constitution****Subject: The legitimacy of the appointment of the Director of the Morarji Desai National Institute of Yoga (MDNIY) challenged through a Public Interest Litigation (PIL) filed as a writ of Quo Warranto.****Headnotes:**

Public Interest Litigation – Quo Warranto – Judicial inquiry into the legitimacy of the appointment of the Director of the Morarji Desai National Institute of Yoga – Petitioner alleges lack of requisite qualifications and fabricated employment record of the respondent – Court finds the respondent met the essential criteria at the time of appointment. [Para 1, 20-22]

Appointment and Qualifications – Director of MDNIY – Allegations of forged academic credentials and service record – Respondent's qualifications and experience as per the recruitment rules assessed – Court concludes the respondent's qualifications and experience fulfil the essential criteria. [Para 3.2, 9, 12-14]

Tenure of Office – MDNIY Director's tenure beyond the stipulated period – Examination of policy documents and appointment terms – Petition's claim unsubstantiated, respondent's appointment deemed in compliance with due process. [Para 3.3, 15-16]

Medical Fitness – Respondent's medical fitness for the role of Yoga Instructor questioned due to past medical discharge from Air Force – Court finds no cogent evidence to investigate the claim further. [Para 17]

Vigilance Complaints – Lack of action on complaints lodged with CVC against the respondent – Court accepts Respondent's explanation as per CVC guidelines, dismissing the complaints as 'pseudonymous.' [Para 18]

Performance as Director – Allegations of respondent’s ineffectiveness in expanding opportunities for Yoga teachers – Court determines such claims fall outside its evaluative authority under Article 226. [Para 19]

Decision – Petitioner’s allegations found unsubstantiated, respondent’s appointment and tenure confirmed as legitimate – Writ petition and associated applications dismissed. [Para 20-24]

Referred Cases: None.

Representing Advocates:

Mr. Mobin Akhtar, Advocate for the Petitioner

Mr. Ajay Diggpaul, CGSC with Mr. Kamal Diggpaul & Ms. Swati Kwatra, Advocates for Respondents No.1 & 5/UOI

Mr. R.M. Bagai, Advocate for Respondents No. 2 & 3 with Respondent No.3 in person

Mr. Gurudatta Ankolekar, Advocate for Respondent No.4

JUDGMENT

SANJEEV NARULA, J:

1. This Public Interest Litigation (“**PIL**”), filed as a writ of *Quo warranto*, seeks a judicial inquiry into the legitimacy of the appointment of Dr. Ishwarappa Veerbhadrappa Basavaraddi as Director of the Morarji Desai National Institute of Yoga (“**MDNIY**”), a distinguished autonomous institution under the Ministry of AYUSH, Union of India (“**AYUSH**”). This scrutiny is premised on the allegations that Dr. Basavaraddi’s ascendance to this critical role is marred by a lack of requisite qualifications and a purportedly false and fabricated employment record.

2. The Petitioner, asserting his stance as a law-abiding and vigilant citizen, disclaims any personal gain from this litigation and positions himself as a sentinel of public interest. He alleges to have encountered the reported discrepancies while serving at the MDNIY, and thus has approached this Court to address what he delineates to be gross irregularities and statutory breaches.

PETITIONER’S SUBMISSIONS

3. Mr. Akhtar, Counsel for the Petitioner, sets out the factual background and his contentions as follows:

3.1. The Petitioner was appointed as an Assistant Professor (Yoga Therapy) at the MDNIY on January 5, 2015 and is stated to have served until

January 2018. During his tenure, he purportedly witnessed numerous administrative discrepancies occurring under the directorship of Dr. Basavaraddi (Respondent No. 3).

3.2. Respondent No. 3 assumed the role of Director on June 26, 2005, despite an apparent deficiency in meeting the requisite qualifications stipulated by the recruitment norms. He secured his position through the submission of forged and fabricated academic credentials and a doctored service record, which escaped proper scrutiny. Notably, despite Respondent No.3's claims of possessing a decade of experience as a Yoga Instructor at Karnatak University (Respondent No. 4), his qualifications for such an instructional role, even in a temporary capacity, are contested by the Petitioner.

3.3. Respondent No. 3 is accused of consolidating his influence within the MDNIY and exploiting his authority to unlawfully prolong his directorship. A directive dated October 29, 2002, from the Ministry of Finance & Company Affairs, Department of Expenditure, mandates that appointments be contractual and span a term of three years. Moreover, a policy decision taken by AYUSH in 2009 — referenced in the context of appointing Dr. M.A. Jafri as Director of the National Institute of Unani Medicine (NIUM) — caps the tenure of directorial positions at five years. Contrary to these stipulations, Respondent No. 3 is alleged to have extended his tenure beyond 13 years (as of the filing of this PIL) without any legitimate authorization for such an extension.

3.4. Additionally, Petitioner alleges that Respondent No. 3's past service in the Indian Air Force, from which he was medically discharged for being unfit and permanently disabled, casts doubt on his capacity to fulfil the physically demanding duties of a Yoga Instructor. Further, the required medical examination and police verification, as mandated by the Central Civil Services (CCS) Rules, were neither conducted at the time of his initial appointment nor at any subsequent time.

3.5. The performance of Respondent No. 3 as Director has also come under scrutiny. He has reportedly not managed to expand opportunities for Yoga teachers, a failing made more pronounced by the potential for growth that arose following the inception of International Yoga Day.

4. A slew of complaints lodged against Respondent No. 3 with the Chief Vigilance Commissioner (“**CVC**”) have yet to elicit any response or result in any investigative action. It is within this backdrop of alleged oversight and

inaction that the Petitioner has sought redress from this Court through the current PIL.

5. The prayers made by the Petitioner are as under:

“a) Direct respondent no.1 & 2 to set up an enquiry by suspending the respondent no.3 to verify the antecedents as to whether he was holding valid degree and experience for the said post.

b) Issue the direction to the respondent no. 1 &2 to suspend the respondent no.3/Director/I.V. Basavaraddi till the enquiry is complete.

c) Direct the respondents no. 1, 2, 4, & 5 to produce the complete service and academic record before this Hon'ble Court.

d) Pass such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

RESPONDENTS' SUBMISSIONS

6. Contrarily, Mr. Bagai, Counsel for Respondent No. 3, refutes the allegations brought forth, with corroborative backing from the correspondents, notably AYUSH and MDNIY. Their collective response is summarized below:

6.1 The petition lacks any public character and is filed in sheer abuse of judicial process by deeming it a PIL. The Respondents claim that the allegations are manufactured by the Petitioner due to a personal vendetta against Respondent No. 3.

6.2 The history of the Petitioner's employment with MDNIY is characterized as a series of temporary contractual engagements, initially for a four-month period with successive extensions of similar duration. This arrangement came to an end upon the fulfilment of these roles through regular recruitment processes. The Petitioner's applications for permanent posts of Assistant Professor in both Yoga Therapy and Yoga Education were subjected to a thorough selection procedure, in which Respondent No. 3 served on the five-member Selection Committee. The said committee unanimously held the Petitioner to be ineligible for the advertised positions. Following his rejection, the Petitioner launched a campaign of vindictive complaints and legal actions against Respondent No. 3, of which this petition is a continuation.

6.3 The Petitioner previously initiated legal action through W.P.(C) 90/2019 urging the same grounds, which was ultimately dismissed with the liberty to refile. Despite this permission, the current PIL fails to present any novel arguments or requests for relief. It is also noteworthy that MDNIY had presented a detailed counter-affidavit during the prior proceedings, which outlined the legitimate selection process that culminated in Respondent No.

3's lawful appointment. This counter-affidavit has not been acknowledged or controverted by the Petitioner in the present case.

6.4 Regarding the qualifications of Respondent No. 3, the Respondents maintain that he fully meets the criteria set by the recruitment rules effective at his time of appointment. He has purportedly provided verifiable certificates to this effect. His application for direct recruitment to the regular post of Director was made through Karnatak University, wherein he claims to have served as a lecturer in Yoga from 1989 to 2005. Following an interview before the duly constituted selection committee on May 12, 2005, he was offered the position by an official letter on May 27, 2005, and his appointment on probation was confirmed from June 24, 2005, by an order dated June 30, 2005. His confirmation of service was subsequently issued retroactively with effect from June 24, 2005, by a letter dated March 14, 2017.

6.5 Furthermore, the Respondents argue that the allegations of illegitimate extension of tenure are unfounded. Respondent No. 3 was not appointed on a contractual basis but through direct recruitment, rendering the three-year contractual limit mentioned by the Petitioner inapplicable. Additionally, they point out that this three-year stipulation was abrogated by a policy change noted by the Ministry of Finance on January 4, 2012, which the Petitioner has overlooked.

ANALYSIS AND FINDINGS

7. The Court is mindful that the sanctity of appointments to public offices is of paramount importance, and the issuance of a writ of *Quo warranto* is a tool to ensure that no individual occupies a public office without legal authority. However, the petition for such a writ must be grounded on firm evidence that dislodges the presumption of regularity in public appointments. In the exercise of judicial review, especially in the context of a writ of *Quo warranto*, this Court is duty-bound to adhere to principles of statutory interpretation and to evaluate the eligibility of the officeholder against the established legal and statutory framework. The purview of our inquiry extends to ascertaining whether the incumbent possesses the requisite qualifications at the time of the appointment and whether due process has been followed in their selection.

8. Given the serious nature of accusations concerning falsification of records, an in-depth examination of Respondent No. 3's service records and the nature of his work is warranted. To proceed with this assessment,

reference must be made to the recruitment rules applicable at the time of his appointment in 2005 (“**Recruitment Rules**”), the relevant excerpt of which is extracted as under:

“Revised RECRUITMENT RULES FOR THE POST OF DIRECTOR (MDNIY)”

...
...
7.	<i>Educational and other Qualifications required for direct recruitment</i>	<p><u>Essential: -</u></p> <ul style="list-style-type: none"> - <i>Post Graduate Degree in any subject from a recognized university with one Year Diploma course in Yoga from a reputed institution;</i> - <i>Minimum 10 years' experience In teaching/managing/research/administrati on In a recognized University or reputed Institution in Yoga.</i> <p><u>Desirable: -</u></p> <ul style="list-style-type: none"> - <i>Working knowledge of Sanskrit and general knowledge of Indian Philosophy;</i> - <i>Ability to address lectures, press conferences, write effectively and persuasively to people in different walks of life including institutes in India and abroad;</i> - <i>Published material related to Yoga.</i> - <i>Participation In National and International Conferences.</i>

9. The first ‘essential’ condition for eligibility pertains to the educational qualifications of the candidate. Before us, the qualifications of Respondent No. 3 include a Diploma in Yoga Education (in 1989); a Master of Science degree in Physics (in 1995); a Master of Arts in Philosophy (in 1996); a Ph.D. in Philosophy (in 2005); and, a Post-Graduate Diploma in Computer Applications (in 1994). The authenticity of these credentials, as submitted, has been validated by Karnatak University, being the institution that issued these certificates in favour of Respondent No. 3. Therefore, *prima facie*, Respondent No. 3 satisfies the essential educational prerequisites of the Recruitment Rules, which call for a Post-Graduate Degree in any subject and a Diploma in Yoga from a recognized institution.

10. The second ‘essential’ element requires a decade of experience in a recognized university or reputed institution in teaching, management, research, or administration in Yoga. Respondent No. 3’s claimed tenure at Karnatak University from 1989 to 2005, if uninterrupted and relevant to Yoga,

would seem to fulfil this requirement. However, since the authenticity of this experience has been brought into question by the Petitioner, it is incumbent upon the Court to scrutinize the veracity of the experience claimed, particularly in light of the allegations of forgery and fabrication. The specific contention of the Petitioner is that Respondent No. 3 was improperly appointed as an ‘Instructor in Yoga’ despite lacking the mandatory qualifications delineated in the Karnatak University Staff Recruitment Statute (“**Statute**”), which state as under:

YOGA STUDIES

*Instructor in
Yoga*

*By Direct
recruitment*

*For Direct
recruitment and
contract
appointment*

or

*By contract
appointment*

*Master’s degree in
Yoga
studies*

Or

Diploma in Yoga Practice and Master’s degree preferably in Philosophy or Psychology

11. The Petitioner has argued that a Master's degree in Yoga Studies is indispensable for the appointment as per the Statute. However, the language of the Statute uses the conjunction “or”, indicating that a Master’s degree in Yoga Studies is not the sole route to qualification. Instead, a Diploma in the relevant field, coupled with a Master’s degree, would also meet the criteria set out in the Statute. Moreover, although Philosophy and Psychology are specifically mentioned, the term “preferably” suggests their consideration as desirable rather than exclusive options. Consequently, it is our interpretation that the possession of any Master’s degree, alongside a Diploma in Yoga, is adequate for the role of a Yoga Instructor under the Statute.

12. To demonstrate that he had amassed over ten years of experience, Respondent No. 3 has furnished a Service Certificate dated March 19, 2005, issued by the Registrar of Karnatak University at the time of his application for the Director's position. Delving into the facts presented to this Court, we note that Respondent No. 3 initiated his tenure as a temporary yoga instructor in 1989 after having obtained his Diploma in Yoga Education. His appointment became regular in 1994, and he was fully regularized in 1996. By then, he had achieved Master's degrees in both Physics and Philosophy. Matching his employment advancement at Karnatak University with his academic credentials, we find no irregularities in his appointment process as a Yoga Instructor.

13. Upon further examination of the 'essential' qualifications stipulated in the Recruitment Rules, we also note that there is no specific mandate for the candidate to have been regularly employed as a Yoga Instructor for a decade. The criteria encompass a broader scope of experience, including "teaching, managing, research, administration", as stated in the Recruitment Rules. The Service Certificate is unequivocal in showing that since 1989, Respondent No. 3 has over a decade of experience in lecturing in Yoga at a recognized university, culminating in his application for the Director's post in 2005. Thus, this second essential condition has also been satisfactorily fulfilled by Respondent No. 3.

14. Consequently, Respondent No. 3 has demonstrably met all the 'essential' eligibility requirements for the position of Director of MDNIY. Moreover, the 'Desirable' qualifications appear to have been adequately addressed as well. Although not mandatory, the 'desirable' qualifications provide a supplementary framework to gauge the aptness of a candidate for a directorial role, offering a holistic view of their capabilities. Respondent No. 3 has not only completed a Diploma in Yoga and a Doctorate in Philosophy, but he also possesses significant lecturing experience in Yoga. Such qualifications would equip an individual with a considerable depth of theoretical knowledge as well as a foundational expertise in Yoga, which are conducive to the directorial role within an institution dedicated to this discipline. From the facts before this Court, it seems that Respondent No. 3's overall profile aligns with that envisioned for the Director of MDNIY, and it is a reasonable deduction that Respondent No. 3 is not merely qualified but indeed aptly suited for the role in question.

15. The next issue under scrutiny concerns the alleged unauthorized extension of Respondent No. 3's tenure without a valid order to that effect. In evaluating this point, we find that the documents furnished by the Petitioner fail to substantiate his claim. Indeed, the letter dated October 29, 2002, does mention that appointments should typically be contractual and lasting three years. However, there is no concrete evidence produced to confirm that Respondent No. 3's appointment was contractual in nature. The Ministry of AYUSH has clarified that Respondent No. 3 was directly recruited following a thorough selection process by an authorized committee. Notably, the appointment order expressly states that his tenure as Director would last "till further orders." Furthermore, a memorandum dated January 4, 2012, revised the aforementioned letter, removing the three-year

limitation. This revision nullifies any argument that such a limit was ever intended for the position of Director.

16. Additionally, the policy decision by the Ministry of AYUSH in 2009, which the Petitioner cites, is not germane to this case. Not only has a copy of the said policy decision not been submitted, beyond a passing reference in the context of Dr. M.A. Jafri's appointment. Further, the reference made to the said policy reveals that it pertains specifically to the tenure of CEOs of Research Councils/ National Institutes and makes no reference to the applicability of its terms to the position of Director. In the final analysis, Respondent No. 3's service was confirmed by an order dated March 14, 2017, effective from June 24, 2005. Despite the apparent gap in the Respondents' explanation for the confirmation of delay, we find no compelling reason to infer a negative conclusion from this delay in the present context.

17. The Petitioner's third contention relates to Respondent No. 3 allegedly being released from service in the Indian Air Force on medical grounds, having been classified as permanently disabled and therefore medically unfit. This claim has been expressly denied by Respondent No. 3, who maintains that he does not suffer from any such disability. In an attempt to substantiate his claim, the Petitioner filed an RTI application requesting details of Respondent No. 3's service in the Air Force. This request was denied under Section 8(1)(j) of the Right to Information Act, 2005, with the justification that the information requested bore no relevance to any public activity or interest. Moreover, the Ministry of AYUSH has elucidated that the usual protocols of police verification and a medical examination were considered redundant for Respondent No. 3's appointment given his existing employment as a Lecturer at Karnatak University, and this exemption was subsequently ratified by the concerned Minister-in-Charge. In the absence of any cogent evidence from the Petitioner to support his allegation, this Court does not find it necessary to further investigate the matter of Respondent No. 3's medical fitness for the position in question.

18. The Petitioner has also voiced discontent regarding the lack of action following his complaints against Respondent No. 3 lodged with the Central Vigilance Commissioner (CVC). Addressing this issue, the Ministry of AYUSH has acknowledged receipt of two complaints from the Petitioner, both dated January 9, 2019. Subsequent to these complaints, the Petitioner was sent a letter on March 12, 2019, seeking confirmation of authorship of the complaints and verification of his address. This letter, however, was returned as undelivered due to an incomplete address being provided. Consequently, in

line with the CVC guidelines, the complaints were classified and dismissed as 'pseudonymous.' The Petitioner has not presented any counterarguments to refute this procedural outcome. Therefore, the explanation offered by the Respondents is accepted by this Court, and no negative inferences are derived from these proceedings.

19. Finally, as regards the allegations pertaining to Respondent No. 3's purported inefficacy in fulfilling his duties as Director of MDNIY, it is this Court's opinion that such claims fall beyond the purview of its evaluative authority under Article 226 of the Constitution. This Court, therefore, deems it inappropriate to intervene on these grounds.

CONCLUSION

20. It has been established through careful evaluation of the service records and educational qualifications that Respondent No. 3 has met the essential criteria for the appointment as Director of MDNIY, as applicable at the time of his appointment. This compliance with the prescribed qualifications is a central pillar in upholding the legitimacy of his position. On the contrary, the Petitioner has not provided evidence of such a nature that would compel the Court to override the presumption of regularity or question the legitimacy of Respondent No. 3's tenure. It is well established in jurisprudence that mere dissatisfaction with the outcomes related to an appointment process, or the performance of an appointee, does not *per se* translate into legal infirmity. The standard of proof required to dislodge an incumbent from a public office *via* a writ of *Quo warranto* is exacting, and such an action must be predicated upon clear, unambiguous, and cogent evidence of illegality in their appointment. The onus was on the Petitioner to provide incontrovertible proof to sustain such a challenge, which, in the present case, has not been met.

21. After a detailed scrutiny of the records and statutory requirements, it has been demonstrated that Respondent No. 3 met the prescribed criteria at the relevant times, and there has been a substantial compliance with due process in his appointment.

22. Furthermore, it is pertinent to acknowledge that Respondent No. 3 has retired from his position as Director on June 30, 2023, having attained the age of superannuation. This development, in conjunction with the reasons previously delineated, renders the present petition and the relief sought therein moot.

23. Despite the contentions by the Respondents challenging the writ of *Quo warranto* on procedural grounds, this Court has chosen to thoroughly examine the merits of the case. Based on the comprehensive review of the evidence and arguments presented, we find no compelling reason to sustain the petition. Therefore, the petition is hereby dismissed on the facts as they stand.

24. In light of the foregoing, the writ petition and all applications associated with it are hereby dismissed.

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