

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 14TH DAY OF DECEMBER 2021

BEFORE

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO.104008 OF 2021 (EDN)

BETWEEN

1. MAHANATESH
S/O. NAGAYYA MADARIMATH,
AGE: 25 YEARS, OCC: STUDENT,
R/O. HIREMATH ONI,
MANGALWAR PETH,
DHARWAD-580001.
(DELETED VIDE COURT ORDER DATED:11.11.2021)
2. SURAJ S/O. DEVARADDI VANTIGODI
AGE: 26 YEARS, OCC: STUDENT,
R/O. #27 LAKKANAVAR ONI,
2ND CROSS RAYAPUR,
DHARWAD-580009
3. SHIVAKUMAR
S/O. NAGAPPA KOPPAD,
AGE: 28 YEARS, OCC: STUDENT,
R/O. NADIKESWAR NAGAR,
DHAIRIDEVARKOPPA,
HUBBALI-580025
(DELETED VIDE COURT ORDER DATED:11.11.2021)
4. DHARANEENDRA
S/O. SANGAPPA ACHARYA,
AGE: 61 YEARS,
ANEGUNDI PLOT, HALIYAL
DIST: UTTARA KANNADA
5. K. SHIVARAM KRISHNA NAYAK,
AGE: 26 YEARS, OCC: STUDENT,

- R/O. 2/4 NEAR MARAMMA TEMPLE,
VTC KAMALAPUR,
POST: KAMALAPUR,
DIST: RAICHUR.
6. NAGALINGAPPA W/O. AYYANNA,
AGE: 38 YEARS, OCC: STUDENT,
R/O. RAJOLLI, DIST: RAICHUR,
 7. RAMESH S/O. TIMMANNA KALGUDI,
AGE: 24 YEARS, OCC: STUDENT,
R/O. TURVINHAL WARD,
NO.4 TURVINHAL,
DIST: RAICHUR
 8. RAVI D S/O. BASAVAREDDY D,
AGE: 39 YEARS, OCC: STUDENT,
R/O. BOORAN KILLA,
NEAR ASHOK HOTEL,
RAICHUR, DIST: RAICHUR.
 9. AISHWARYA JOSHI
D/O. DILIP KUMAR
AGE: 23 YEARS, OCC: STUDENT,
L1 4TH FLOOR,
SHANTADURGA APARTMENT,
KALAGATAGI ROAD,
SARASWATPUR, DHARWAD.
 10. MEHENDRA REDDY
S/O. RAJASHEKAR,
AGE: 44 YEARS, OCC: STUDENT,
R/O. DEVI COLONY,
SURABHI NAGAR,
GOKUL ROAD, HUBBALLI,
DIST: BIJAPUR,
 11. BASAVARAJ SHETTAR,
AGE: 24 YEARS, OCC: STUDENT,
R/O. MACHAKUNAR,
DIST: BAGALKOTE.

12. BHAGYA SHARANAPPA
AGE: 24, OCC: STUDENT,
R/O. ADARSH COLONY,
SINDANUR, DIST: RAICHUR.
13. UMA D/O. VEERESH BEVINAL,
AGE: 24 YEARS, OCC: STUDENT,
R/O. KARATAGI, TQ: GANGAVATI,
DIST: KOPPAL.
14. RAJA MAHARAJ BADEGERI,
AGE: 24 YEARS, OCC: STUDENT,
R/O. VIDYANAGAR, MUDDEBIHAL,
TQ/DIST: VIJAYPUR.

(Impleaded the petitioners No.5 to 14
v/c/o dtd.14.12.2021)

...PETITIONERS

(BY SRI DAYANAND M BANDI, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
DEPARTMENT OF HIGHER EDUCATION
REPRESENTED BY
PRINCIPAL SECRETARY
M.S. BUILDING,
BENGALURU-560001.
2. KARNATAKA STATE LAW UNIVERISTY
REPRESENTED BY ITS REGISTRAR,
NAVANAGAR, HUBBALLI-560025
3. BAR COUNCIL OF INDIA
REPRESENTED BY ITS CHAIRMAN
21, ROUSE AVENUE,
INSTITUTIONAL AREA,
NEAR BAL BHAVAN,
NEW DELHI-110002.

...RESPONDENTS

(BY SRI. K. L. PATIL, ADV., AND
SRI. S. S. BETURMATH, ADV., FOR R2;
SRI. B. V. SOMAPUR, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF CERTIORARI OR ANY OTHER ORDER OR IN THE FORM OF DIRECTION TO QUASH THE NOTIFICATION DATED 22/09/2021 BEARING NO.KSLU/EXAM/2021-22/676(A) VIDE ANNEXURE-M TO THE WRIT PETITION AND ALSO TO QUASH THE NOTIFICATION DATED 04/10/2021 BEARING NO.KSLU/EXAM/2021-22 VIDE ANNEXURE-N TO THE WRIT PETITION ONLY TO THE EXTENT OF 2ND AND 4TH SEMESTER STUDENTS ARE CONCERNED IN THE INTEREST OF JUSTICE AND EQUITY; TO ISSUE WRIT OF MANDAMUS DIRECTING THE RESPONDENT NO.2 TO FOLLOW THE GUIDELINES UNIVERSITY GRANT COMMISSION OF JULY 2021 VIDE ANNEXURE-G FOLLOWED BY KARNATAKA UNIVERSITY DHARWAD VIDE CIRCULAR DATED 27/09/2021 VIDE ANNEXURE-K AND TO PROMOTE THE INTERMEDIATE SEMESTER STUDENTS TO NEXT SEMESTER AND TO EVALUATE THEIR PERFORMANCE ON THE INTERNAL EVALUATION IN THE INTEREST OF JUSTICE AND EQUITY OR ALTERNATIVELY TO ISSUE WRIT OF MANDAMUS DIRECTING THE 2ND RESPONDENT TO POSTPONE THE EXAMINATIONS HELD VIDE NOTIFICATION DATED 04/10/2021 BEARING NO.KSLU/EXAM/2021-22 VIDE ANNEXURE-N TO THE WRIT PETITION, IN SO FAR AS 2ND AND 4TH SEMESTER STUDENTS ARE CONCERNED, SO AS TO AFFORD SUFFICIENT TIME FOR THE SAID STUDENTS TO PREPARE FOR THE EXAMINATION AFTER COMPLETING THE REQUIRED SYLLABUS TO RESPECTIVE 2ND AND 4TH SEMESTER COURSES.

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioners are students pursuing second and fourth semesters in three years LL.B course in the respondent- College. Petitioners aggrieved by the notification issued by the respondent - University for conducting examinations to the

students of second and fourth semesters for three year LL.B course have filed this writ petition.

2. The University Grant Commission (for short 'UGC') had issued guidelines on the examinations in view of the ongoing COVID-19 pandemic in April, 2020 exempting conducting examinations for the intermediate semester students and their valuations would be based on the marks obtained in the previous years. However, the Bar Council of India issued an advisory insisting for conducting examinations even for students of intermediate semesters which was challenged before this Court in WP No.14389/2020.

3. This Court by order dated 8.2.2021 quashed the press release dated 1.11.2020 issued by the Bar Council of India and so also the circular issued by the respondent – University on the ground that the guidelines were issued by the Bar Council of India without obtaining opinion of the Expert Committee and also directed the respondent – University to promote the students pursuing intermediary courses in Law, based on their previous performances. This order has attained finality.

4. The Bar Council of India constituted a committee so as to furnish opinion as to whether it is feasible to conduct the examinations for the law students across the country. The Bar Council of India on the opinion furnished by the Expert Committee issued a press release dated 10.6.2021 (Annexure-H) accepting the report of the Committee in which it was opined that respective Universities shall conduct examinations for intermediate and final year students as per their own dispensation, depending upon the availability of resources and impact of COVID – 19 in that region. It was further opined that the respective Universities are free to determine the mode of examination [Online/Offline/Blended/Online Open Book Exam (OBE)/Assignment Based Evaluation (ABE)/Research papers].

5. Pursuant to the advisory issued by the Bar Council of India, the respondent – University issued the impugned notification for conducting examinations to all the semesters of three year LL.B course as well as five year LL.B course. The petitioners aggrieved by the decision of the respondent –

University for conducting examinations have filed this writ petition.

6. Heard Sri Dayanand Bandi learned counsel for the petitioners, Sri Udaya Holla, learned Senior Counsel on behalf of Sri K.L. Patil, learned counsel for the University and Sri Sridhar Prabhu, learned for Bar Council of India.

7. The UGC issued guidelines on the examinations in view of the COVID-19 pandemic in July, 2021 wherein the examinations for intermediate semester/year students was dispensed with and students were promoted to the next semester based on the internal evaluation and previous semesters as suggested in 2020 guidelines. However, the guidelines regarding the conducting of examinations were subject to advisories/directives to be issued by the other statutory bodies including Bar Council of India.

8. The Bar Council of India after constituting an Expert Committee and after obtaining its opinion decided to conduct examinations for intermediate and final year students. However,

the respective Universities were given free hand to determine mode of examination through Online/Offline/Blended/Online Open Book Exam (OBE)/Assignment Based Evaluation (ABE)/Research papers. The Bar Council of India being the Regulatory Body for all the Law Universities affiliated to it was well within its power to issue the said advisory/direction.

9. Pursuant to the advisory issued by the Bar Council of India, the respondent – University took a decision to conduct examinations for all the semesters including final semester. The respondent – University having been given free hand to determine the mode of examinations was under an obligation to take into account all the relevant factors for conducting examinations in view of the ongoing COVID-19 pandemic. The respondent – University has produced the proceedings of the Expert Committee dated 8.9.2021 wherein the Expert Committee took an unanimous decision to conduct examinations through offline mode only.

10. The relevant portion of the proceedings of the Expert Committee held on 8.9.2021 is reproduced below:

“QUESTIONNAIRE TO STUDENTS
80 colleges submitted data for students Questionnaire

Total	No of Students Submitted feedback	Question Numbers	Question	Ans (a)	Ans (b)
26748	20375	Q1	Yours choice of mode of examination	Online 10859	Offline 15429
26748	20354	Q2	Do you have access to Laptop/Desktop Computer	Yes 11807	No 14272
26748	19638	Q3	If yes, it belongs to	Yourself 10275	A member of your Family Friend 1532
26748	19915	Q4	Does that device have internet connection?	Yes 11249	No 558
26748	19889	Q5	Does the device have sufficient power backup?	Yes 10632	No 1175
26748	19905	Q6	Does the device have a front camera or Web Cam?	Yes 10641	No 1166
26748	20118	Q7	If Examination is conducted online, do you have sufficient knowledge to operate the device independently?	Yes 11924	No 13849
26748	20132	Q8	Do you have the necessary typing skills to type the answers in the online examinations?	Yes 10793	No 15011
26748	20143	Q9	Are you well equipped to attend online examination?	Yes 10684	NO 14663

Questionnaire to Colleges
74 Colleges submitted data

Question Number	Questions	Ans

Q1	What is the total strength of the students who may appear for the next examination?	25994	
Q2	How many of them have access to a laptop or a desktop computer?	12118	
Q3	How many of them have internet connection?	11250	
Q4	How many of them have proper power backup?	10710	
Q5	How many of them have knowledge of operating their devices to be able to attempt online examination?	11812	
Q6	How many of them have necessary typing skills(English or Kannada) required to type answers in online examination	10672	
Q7	How many students are well equipped to face online examination?	10808	
Q8	Does your college have sufficient infrastructure to provide facility to the remaining students to appear for online examination?	Yes	No
		18	56
Q9	Is there CCTV facility in your college to monitor and record the conduct of online examination?	Yes	No
		46	60

The Expert Committee discussed all the issues and difficulties involved and resolved the following.

1. Based on the analysis of the data received from the Colleges and Students it was resolved that the students from Rural Colleges are not

able to attend online mode of examination due to problem of electricity and other technical issues like internet, Battery Backups etc., If examinations are held online it will cause injustice to those students.

2. Since the Government of Karnataka has also issued the order for reopening of Schools and Colleges by following Covid-19 guidelines. Therefore it was resolved that offline mode of conduct of examination is better.
3. As per the Government Order students from other States who cannot travel, an opportunity may be given to them to appear for next examination as fresh candidate. No Examination fee shall be collected for the next examination if already fees had been paid.
4. Hence, considering the above reason coming examinations shall be conducted offline mode only."

11. An analysis of the proceedings indicates that the Expert Committee resolved to conduct examinations through offline mode only, by collecting data from the respective Law Colleges with regard to feasibility in conducting examinations through online mode. The data collected reflects that the majority of the students do not possess laptop or desktop computers and also do not have internet facilities. The Committee was required to consider not only the feasibility to conduct examinations, but also was required to determine the

other mode of examinations, that is, open book exam and assignment based evaluation/research paper. **However, the Committee has not taken into account, whether effective education was imparted to the students including the petitioners which is probably the most important relevant factor.** The Committee without taking into account the relevant factor has resolved to conduct examinations.

12. The duration of each semester is for a period of four months. Admittedly, the classes for respective semesters commenced from 3.5.2021 onwards through online mode and the University directed all the affiliated Law Colleges to conduct the offline classes from 26.7.2021 and the semester concluded by end of August 2021. The lockdown was announced in the State of Karnataka with effect from 26.4.2021 for a period of four weeks and the University directed the affiliated Law Colleges to commence online classes from 3.5.2021 which admittedly was during the lockdown.

13. The data collected by the University indicates that more than 50% of the students do not possess laptop/desktop

computer and also do not have internet connection and the online classes is alleged to have been conducted from 3.5.2021 till 26.7.2021 ie. for a period of three months and duration of semester is admittedly four months. However, no data was collected by the University as to whether effective education was imparted through online and offline classes. In the absence of the same and also going by data collected by the University which indicate the majority of the students did not possess the laptop/desktop and also do not have access to internet facilities, it is implied that effective education was not imparted to the petitioners as well as majority of the students. The Petitioners in paras 3 to 5 of the memorandum of writ petition have specifically pleaded that the effective education was not imparted .

14. Having regard to the fact that the classes through online were alleged to have been conducted for a period of three months, it is implied that the petitioners did not have access to the library which is a storehouse of knowledge and the

library helps the petitioners to perform better during examination by reading various books.

15. In pursuance of the advisory issued by the Bar Council of India and also the University Grants Commission , the majority of the Universities including the Karnatak University, Dharwad and also National Academy of Legal Studies and Research (NALSAR) University of Law and Rajiv Gandhi National University of Law have taken a decision to dispense with the examinations and to promote the students to next semester based on the past performance. The similarly situated students of other Universities were exempted from appearing in the examinations and were promoted to the next semester based on previous performance. Though the question of discrimination can be only amongst the equals as held by the Division Bench of this Court in WA No.1245/2021, however, the University which has got the domain to choose the mode of conducting examinations under Section 9 and 10 of the KSLU Act and also to dispense with conducting examination in view of the ongoing COVID-19 pandemic was required to apply its mind judiciously

before taking a call to conduct examinations through offline mode. However, the decision taken by the University without taking into account the relevant factors for conducting examinations through offline mode is arbitrary having regard to the fact that effective education was not imparted to the petitioners which is the basic requirement for petitioners to write the examination.

16. In the normal circumstances, the petitioners are under an obligation to attend the classes through offline mode so as to be educated and be prepared for appearing in the examinations. In the present scenario, the petitioners have not been imparted with the effective education so as to be prepared for writing the examinations. The petitioners who are not prepared for no fault of theirs cannot be compelled to appear in the examinations with fear in their mind that they would fail in the examinations.

17. The Bar Council of India having accepted the order passed by this court in WP No.14389/2020 directing the Respondent- University to promote the students based on their

past performance cannot now contend that the degrees of the students who have been promoted will not be accepted and the same is untenable.

18. In view of the preceding analysis, I am of the considered view that effective education was not imparted to the petitioners and also majority of the students and the University by not taking into account this most important factor has taken a decision to conduct examinations which is prejudicial to the interest of the petitioners and they cannot suffer for no fault of them.

Accordingly, I pass the following:

ORDER

The writ petition is allowed.

The impugned notification dated 22.09.2021 issued by the respondent No.2 and also subsequent notification dated 01.12.2021 issued by respondent No.3 insofar it relates to conducting of the examination for the students of 2nd and 4th semester of three year LLB course are hereby quashed.

Respondent No.2 University is directed to promote the petitioners to the next semester in the light of the order passed by this Court in W.P.No.14389/2020 disposed of on 08.02.2021.

It is made clear that this order is restricted to the students of the three year LLB Course.

Sd/-
JUDGE

bkm