

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

(ORIGINAL JURISDICTION)

W.P. No. 8155 of 2020 (GM-RES) PIL

BETWEEN:

...PETITIONERS

AND:

1. Bar Council of India,
Having its registered office at
Rouse Avenue, Institution Area,
Near Bal Bhavan, New Delhi - 110 002.
Represented by its Chairman.
2. The State of Karnataka,
Department of Higher Education,
Government of Karnataka,
Having its registered office at
#30, Prasanna Kumar Block,
Bangalore Central University Campus,
Y. Ramachandra Road,
Gandhinagar, Bengaluru - 560 009.
Represented by its Secretary.
3. Bangalore University,
Having its registered office at
Jnanabharati Campus,

Main Road, Jnanabharathi,

Bengaluru – 560 056.

Represented by its Vice Chancellor.

4. The Registrar (Evaluation),
Bangalore University,
Having office at Pareeksha Bhavana,
Jnanabharati Campus,
Main Road, Jnanabharathi,
Bengaluru – 560 056.
5. The Principal,
University Law College,
Bangalore University,
Having office at
Jnanabharati Campus,
Main Road, Jnanabharathi,
Bengaluru – 560 056.

...RESPONDENTS

MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226
OF THE CONSTITUTION OF INDIA, 1950.

1. The address of the Petitioner is as shown in the cause title for the purpose of the issuance of summons, notices, etc., from this Hon'ble Court and the Petitioner may also be served through his counsel, Dr. M. Sunil Sastry, Mrs. Champoo Kavya S., Suhas C. S. & M/s. Sastry & Co., Having office at New No.1098 (Old No.8), O.T.C Road, Nagarthpet, Bengaluru-560 002.
2. For the aforesaid purpose in the case of the Respondents is as shown in the cause title as stated supra.
3. It is humbly submitted that the Petitioners in preferring the instant Writ Petition have no personal interest in the litigation and are neither guided by self-gain nor for gains of any other person/institution/body and that there is no motive other than of public interest in filing the instant Writ Petition.
4. **BRIEF FACTS:** The Petitioners are students of University Law College, Bangalore University, Bangalore pursuing 5 years integrated B.A.,L.L.B Course and have enrolled themselves for the supra stated

course in the year 2015. At the cost of repetition, it is humbly submitted that the instant petition is not guided by self-gain nor for the gain of any person or institution or body and that there is no oblique motive in filing the present petition.

5. That the Respondent No.1 is the Bar Council of India, a statutory body created by the Parliament to regulate and represent the Indian Bar. That the Bar Council of India performs regulatory function by prescribing standards of professional conduct and etiquette by exercising disciplinary jurisdiction over the Bar. The Respondent No.1 is a statutory body which also sets the standards for legal education in India by stipulating guidelines as well as rules for legal education in India and grants recognition to Universities whose degree in Law will serve as a qualification for enrolment as an Advocate.
6. That the Respondent No.2 is the Department of Higher Education under the Government of Karnataka and is entrusted with the responsibility of co-ordinating development of academic activities, consideration of matters affecting students such as their admission, mobility, examinations and the like, studying finances of Universities coming under its purview as well as their administrative problems, acting as a co-ordinating agency for funding of various Universities coming under its purview by the University Grants Commission and the State Government. The functions of the Respondent No.2 include the improvisation of the overall quality of state institutions by ensuring conformity to prescribed norms and standards and to adopt accreditation as a mandatory quality, to usher transformative reforms in the state higher education system by creating a facilitating institutional structure for planning and monitoring at the state level, promoting autonomy in State Universities and improving governance in institutions, to ensure reforms in the affiliation, academic and examination systems, etc.
7. That the Respondent No.3 is the Bangalore University, which is a premier institute for higher education located in the metropolitan city of Bengaluru and was established in July of 1964 as an off shoot of the University of Mysore, primarily to include institutions of higher learning located in the metropolitan city of Bengaluru and the districts of Bengaluru, Kolar and Tumkur, which eventually became a

separate university. Initially, the two premier colleges of the city, the Central College (CC) and the University Visvesvaraya College of Engineering (UVCE) formed the nucleus of Bangalore University. The Respondent No.4 is the Registrar of Evaluation at the Bangalore University and the Respondent No.5 is the Principal of the University Law College, Bangalore and that both the Respondent No.4 and 5 are formal parties to the instant petition.

8. The Respondent No.1 is a statutory body established under section 4 of the Advocates Act, 1961 that regulates the legal practice and legal education in India. The Respondent No.1's members are elected from amongst the lawyers pan India and as such represents the Indian Bar. The Respondent No.1 prescribes the standards of professional conduct and etiquettes for advocates, exercises disciplinary jurisdiction over the Indian Bar, it also safeguards the rights, privileges and interests of advocates amongst various other functions. The Respondent No.1 also sets the standards for legal education in India and grants recognition to Universities whose degree in Law shall serve as a qualification for enrolment as an Advocate.
9. It is relevant to mention herein that Part IV of the Bar Council of India Rules is specific to imparting and regulating legal education in India. That the Rules mentioned therein, covers all the aspects, from recognition of a legal institution to syllabus to be adhered to as prescribed by the Bar Council to set benchmark in imparting legal education in India.
10. The Bar Council of India in its Rules at Part IV categorically prescribes the standard of courses, as narrated infra:

"8. Standard of Course – Whereas all Universities and its constituent and affiliated Centres of Legal Education conducting either the three year law degree program or the integrated double degree program for not less than five years of study or both would follow the outline of the minimum number of law courses both theoretical and practical, compulsory and optional, as the case may be, prescribed by the Bar Council of India and specified in the Schedule II and ensuring that:

- (a) *the minimum number of law courses are effectively conducted in the Centres of Legal Education with adequate infrastructural facilities as*

may be prescribed and in the manner stipulated by the University Regulations and Rules and that of the Bar Council of India Rules,

- (b) the minimum standard of first degree course as designed and run by the University for the purpose of running integrated course in accordance with the standard prescribed by the University in view of the academic and other standards laid down, if any, taking into consideration by the standard-setting institutions like University Grants Commission or All India Council for Technical Education or any such body, as the case may be, and the program is effectively run with adequate number of faculty in respective subjects, with infrastructural facilities as may be prescribed by the University as well as the Bar Council of India, and
- (c) there is a regular and proper evaluation system for the purpose of certification of the students graduating in law after completing the course as a regular student.....”

That the Respondent No.1 prescribes certain practical and theoretical courses which are to be conducted by the respective Universities / Institutions that must be evaluated over the course of the undergraduate law degree and must be completed for the purpose of certification of the students' graduation in law.

11. It is relevant to mention herein that Schedule II of Part IV of the Bar Council of India Rules outlines the academic standards and courses a legal institution needs to impart in the course of legal education. It is further relevant to mention herein that Part II (B) under Entry 6 of Schedule II of the Rules of Legal Education (Part IV of Bar Council of India Rules) provides for “Compulsory Clinical Courses” which must be conducted by the respective Universities / Institutions. That under the said Entry 6, Paper 24 pertains to “Moot Court Exercise and Internship” which reads as follows:

“24. Moot court exercise and Internship:

This paper may have three components of 30 marks each and a viva for 10 marks.

(a) Moot Court (30 Marks). Every student may be required to do at least three moot courts in a year with 10 marks for each. The moot court work will be on assigned problem and it will be evaluated for 5 marks for written submissions and 5 marks for oral advocacy.

(b) *Observance of Trial in two cases, one Civil and one Criminal (30 marks):*

Students may be required to attend two trials in the course of the last two or three years of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the court assignment. This scheme will carry 30 marks.

(c) *Interviewing techniques and Pre-trial preparations and Internship diary (30 marks):*

Each student will observe two interviewing sessions of clients at the Lawyer's Office/Legal Aid Office and record the proceedings in a diary, which will carry 15 marks. Each student will further observe the preparation of documents and court papers by the Advocate and the procedure for the filing of the suit/petition. This will be recorded in the diary, which will carry 15 marks.

(d) The fourth component of this paper will be Viva Voce examination on all the above three aspects. This will carry 10 marks."

The Petitioners are herewith producing a copy of the Part IV of the Bar Council Rules pertaining to legal education for the kind perusal of this Hon'ble Court at Annexure-A.

12. The Petitioners humbly submit that on account of the impending COVID-19 pandemic various rules, regulations and Standard Operating Procedures have been framed by both the Central Government as well as the respective State Governments for the welfare of the citizens. That this Hon'ble Court as well has laid down certain Standard Operating Procedures for the regular functioning and operation of the Courts of Law in Karnataka wherein it has been categorically laid down that the entry of Advocates' clerks, litigants as well as any other third parties have been strictly prohibited into the

premises of the Courts sans permission within the jurisdiction of this Hon'ble Court for the time being in force. A copy of the said Standard Operating Procedure dated 26/05/2020 and 28/05/2020 is herewith produced as Annexure-B & B1. As things stand thus, the Petitioners humbly draw the attention of this Hon'ble Court to clauses (b) and (c) of Paper 24 (Moot Court Exercises and Internship) under Entry 6 of Schedule II of the Rules of Legal Education (Part IV of Bar Council of India Rules). The Petitioners humbly submit that taking into consideration the supra change of circumstances, it would be impossible for the students of final year of law to enter the Court premises and observe the Court proceedings or to observe interviewing sessions of clients at a Lawyer's Office/Legal Aid Office for the purpose of completion of the course criteria / mandate as enumerated under clauses (b) and (c) of Paper 24 (Moot Court Exercises and Internship) under Entry 6 of Schedule II of the Rules of Legal Education (Part IV of Bar Council of India Rules). It is further pertinent to mention herein that the Standard Operating Procedure issued by this Hon'ble Court dated 26/05/2020 and 28/05/2020 has to be adhered strictly to prevent transmission of the COVID-19 pandemic within the mortars of the Court Halls. The Petitioner further submits that the Law Chambers / Firms of Advocates are also reluctant to encourage students from law schools to intern at their offices keeping in mind the principles of social distancing. It is relevant to mention herein that the Respondent No.3 adhering to the academic standards and courses prescribed by the Respondent No.1 as narrated supra has framed detailed regulations governing the integrated five (5) years B.A.,L.L.B. course leading to the Bachelor's Degree in Law under the semester scheme by University Law College, Bangalore University, Bangalore, wherein it is mandatory for all the final year students of Five Year Law Course to engage themselves in Pre-Trial Preparation and Participation in Trial Proceedings for which they are assessed to the tune of 60 marks in their final semester. The Regulations of the Bangalore University is herewith produced as Annexure-C.

13. That being the case, irreparable damage will be caused to the mobility of the students en masse considering 60 marks are at stake. That

failure to complete the supra stated Clinical Course would render the course incomplete leaving the mobility of the innocent students in suspended animation having to wait indefinitely for the society to return to normalcy to receive the certificate of law graduation.

14. Having no other alternative, the Petitioners taking into consideration the right to mobility in life of the students en masse as guaranteed under Article 14, 19 and 21 of the Constitution of India, 1950 has approached this Hon'ble Court seeking its indulgence in directing the Respondents on the supra stated issue as prayed herein. It is submitted that this Hon'ble Court, being the last resort of Justice, has time and again stepped in as a beacon of Justice by issuing necessary directions and has provided Justice for such situations where one's rights are violated.
15. The Petitioners having no other efficacious remedy have filed the instant petition seeking the protection of the rights of students en masse in Law and this Hon'ble Court by virtue of Article 226 of the Constitution of India, 1950 has the jurisdiction to intervene and see that Justice is done as per applicable Laws for the time being in force by urging the foregoing grounds.
16. The cause of action arose to this Petition when the COVID-19 pandemic situation came into effect throughout the country and further on 26/05/2020 and 28/05/2020 when this Hon'ble Court laid down certain Standard Operating Procedures for the regular functioning and operation of the Courts of Law in Karnataka wherein it has been categorically laid down that the entry of Advocates' clerks, litigants as well as any other third parties (which includes law students / interns) sans express permission have been strictly prohibited into the premises of the Courts within the jurisdiction of this Hon'ble Court and is continuing day in and day out till date as the rights of the students en masse have been left in suspended animation till date giving impetus for this Hon'ble Court to adjudicate the same under Article 226 of the Constitution of India, 1950.
17. The Petitioners have not filed any other LIS before any other Court of Law on the same subject matter.

GROUNDS

18. The Petitioners humbly submit that the indifference and apathy at the hands of the Respondents is likely to vex the mobility of the students en masse. That the rights of students to mobility in life pursuing law course as narrated supra guaranteed under Article 14, 19 and 21 of the Constitution of India, 1950 is likely to be vexed for no fault of theirs.
19. That the stipulations under clauses (b) and (c) of Paper 24 (Moot Court Exercises and Internship) under Entry 6 of Schedule II of the Rules of Legal Education (Part IV of Bar Council of India Rules) pertaining to Observance of trial (civil/criminal) and Interviewing techniques and Pre-trial preparations and Internship diary as mentioned above may act as an impediment and lead to indefinite delay to graduation of final year law students.
20. That the restrictions placed on the students / interns from entering the Court premises for the purpose of trial observations (civil / criminal) make it onerous on both the students and the University from completing the course in time, leaving the rights of the students in abeyance for no fault of theirs.
21. That such inordinate delay in finishing the Course within the stipulated time would affect the prospects of students making job applications, pursuing higher education in India or elsewhere, preparations for competitive exams such as UPSC, CLAT, All India Bar Council Exam, so on and so forth, violating the freedom of the students as guaranteed under Article 14, 19 and 21 of the Constitution of India, 1950 to practice profession, business or trade of their choice.
22. The knee-jerk reaction to the global pandemic will cause irreparable damage to the students of final year considering 60 marks are at stake. Failure to complete Clinical Course would render the course incomplete with students having to wait indefinitely for the society to return to normalcy to receive the Certificate of law graduation.
23. The Petitioners press into service "THAT NOT ONLY JUSTICE SHOULD BE DONE, IT SHOULD BE SEEN TO BE DONE". The Petitioners pray the liberty of this Hon'ble Court to adduce any further grounds, if any, at the time of hearing of the instant Petition. The Petitioners have paid the requisite Court Fees as per Law.

PRAYER

WHEREFORE, the Petitioners respectfully pray that this Hon'ble Court may be pleased to:

- i. Allow the Writ Petition.
- ii. Grant an order or issue a direction or writ of appropriate nature directing the Respondent No.1 to dispense with clause (b) and (c) of Paper 24 under Schedule II of Part IV of Bar Council of India Rules ("Rules of Legal Education") for the academic year 2019-2020 at Annexure-A.
- iii. Grant an order or issue a direction or writ of appropriate nature directing the Respondent No.1 to formulate detailed guidelines regarding compensating clause (b) and (c) of Paper 24 under Schedule II of Part IV of Bar Council of India Rules ("Rules of Legal Education") for the academic year 2019-2020 vide online, non-physical mode of examination / assessment in an effective and time bound manner.
- iv. Grant an order or issue a direction or writ of appropriate nature directing the Respondent No.3 to dispense with the regulations governing the integrated five (5) years B.A, L.L.B. course wherein it is mandatory for all the final year students of Five Year Law Course to engage themselves in Pre-Trial Preparation and Participation in Trial Proceedings for which they are assessed to the tune of 60 marks in their final semester for the academic year 2019-2020 at Annexure-C.
- v. Grant an order or issue a direction or writ of appropriate nature directing the Respondent No.3 to formulate detailed guidelines regarding compensating the regulations governing the integrated five (5) years B.A,L.L.B. course wherein it is mandatory for all the final year students of Five Year Law Course to engage themselves in Pre-Trial Preparation and Participation in Trial Proceedings for which they are assessed to the tune of 60 marks in their final semester for the academic year 2019-2020 vide online, non-physical mode of examination / assessment in an effective and time bound manner.
- vi. Direct the Respondents to provide all such measures as may be required to conduct the assessment / examination compensating

clause (b) and (c) of Paper 24 under Schedule II of Part IV of Bar Council of India Rules ("Rules of Legal Education").

- vii. Pass such other order/s or relief/s as this Hon'ble Court may deem fit to grant, as per the facts and circumstances of the case, in the interest of Justice, Equity and Good Conscience.

Place: Bengaluru

PETITIONER NO.1

Date:

PETITIONER NO.2

ADVOCATE FOR PETITIONERS

Address for service:-

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