

**IN THE SUPREME COURT OF INDIA**

**CIVIL ORIGINAL JURISDICTION**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2020**

**[UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA]**

**IN THE MATTER OF:**

1. LAVANYA BHATT

**VERSUS**

1. CONSORTIUM OF NATIONAL  
LAW UNIVERSITIES  
THROUGH ITS CHAIRMAN,  
NATIONAL LAW SCHOOL OF  
INDIA UNIVERSITY, GNANA  
BHARATHI MAIN ROAD,  
OPPOSITE NAAC, TEACHERS  
COLONY, NAGARBHAVI, BENGALURU,  
KARNATAKA-560072 RESPONDENT NO.1
2. BAR COUNCIL OF INDIA  
THROUGH IT'S CHAIRMAN  
AT: 21 ROUSE AVENUE,  
INSTITUTIONAL AREA,  
NEW DELHI – 110002 RESPONDENT NO.2
3. UNION OF INDIA  
MINISTRY OF LAW AND JUSTICE,  
THROUGH IT'S SECRETARY  
4TH FLOOR, A-WING,  
SHASTRI BHAWAN,  
NEW DELHI, DELHI 110001 RESPONDENT NO.3

**WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION  
OF INDIA FOR ISSUANCE OF A WRIT OF CERTIORARI OR  
ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION TO  
THE RESPONDENT NO.1, 2 & 3**

TO

THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUSTICES OF

THE HON'BLE SUPREME COURT OF INDIA

THIS HUMBLE PETITION OF THE PETITIONER ABOVENAMED

**MOST RESPECTFULLY SHOWETH:**

1. That the Petitioners are filing the present Writ Petition seeking a declaration that CLAT 2020 is erroneous, faulty, defective & discriminatory; and therefore, violatvie of Articles 14 & 15 of the Constitution of India.
2. That it is submitted that the petitioners are the candidates who have appeared in 'CLAT 2020' are challenging 'CLAT 2020' wherein results declared by the Consortium of NLU, are totally wrong, incorrect, erroneous and therefore biased. A copy of Admit Cards of the petitioner no. 1 to 5 in Universities CLAT 2020 is marked herewith and annexed as **Annexure P/1 [page 41 to page 43].**
3. Respondent no. 1 (The *CONSORTIUM* of National Law Universities) was established on 19th August, 2017 with the aim of improving the standard of legal education in the country and to facilitate better coordination amongst National Law Schools to achieve highest standards of legal education in the country, is responsible to conduct smooth, free and fair CLAT examination. The respondent No. 1 is a registered body under the Karnataka Co-operative Society Act of 26.03.2019. The National Law Universities are public institutions

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established by the State Government and are regulated by Respondent No. 2 (Bar council of India) and Respondent No. 3 (Ministry of Law and Justice, Govt of India).

### **FACTS LEADING TO THE FILING OF THE PRESENT**

#### **PETITION:**

4. That on 11.12.2019, the Respondent No. 1 announced 'CLAT 2020' and scheduled it to be conducted on 10.05.2020.
5. That from 21.04.2020 to 28.08.2020, CLAT 2020 was postponed from time to time due to various notifications dated 21.04.2020, 18.05.2020, 29.06.2020, 05.08.2020, 10.08.2020, and 28.08.2020 on account of the COVID-19 pandemic.
6. That on 29.06.2020, the Respondent No. 1 decided to conduct an 'Online Center-Based Exam' rather than an 'Offline Center-Based Exam', citing "*significant logistics in the handling of question papers and answer scripts, which is not possible during the prevalent pandemic conditions.*" On 28.08.2020, the exam was finally scheduled to be held on 28.09.2020.

7. That from 03.09.2020 to 21.09.2020, an internal dispute subsisted amongst the Consortium members because of NLSIU Bengaluru's unilateral decision to withdraw from CLAT 2020 and conduct its separate exam called NLAT. NLSIU's decision was challenged before this Hon'ble Court in Writ Petition (Civil) No. 1030 of 2020. This Hon'ble Court laid the issue to rest vide its judgment and order dated 21.09.2020 whereby NLAT 2020 was quashed and it was directed that NLSIU shall admit students through CLAT.
8. That on 27.09.2020, the Respondent No. 1 constituted 'Grievance Redressal Committee' consisting of 4 members, including its chairman. A copy of order dated 27.09.2020 for constitution of Grievance Redressal committee is marked herewith and annexed as **Annexure P/2 [page 44]**.
9. That on 28.09.2020, the Respondent No. 1 conducted CLAT 2020 in which students faced several issues.
10. That after the exam, on the same day on which the exam was conducted, the provisional answer keys, which contains the official answers to the questions asked in exams was uploaded on the official portal (clat.ac.in or consortiumofnlus.ac.in), for inviting objections on

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28.09.2020. The students observed that several questions were either itself wrong or answered wrongly in 'provisional answer key'. A true copy of the Question Paper alongwith provisional answer key uploaded on the website of the CLAT Consortium on 28.09.2020 is marked herewith and annexed as **Annexure P/3 [page 45 to page 90]**.

11. The Respondent No. 1 also issued the impugned press release dated 28.09.2020 falsely claiming that the exam was "student friendly", further announcing that the final result shall be published on 05.10.2020 and the admission process would be completed by 14.10.2020. A true copy of the impugned press release dated 28.09.2020 is annexed herewith and marked as **Annexure P/4 [page 91 to page 92]**.

On the same day i.e. on 28.09.2020, the Respondent No. 1 also declared post exam timelines and counseling instructions calling upon the students to deposit a counseling fee of Rs. 50,000/- by 07.10.2020, which would later be adjusted in the fee payable to the college. Respondent No.1 also issued an announcement to the effect that students could view their

Answer Sheets on the CLAT website and that the final answer key would be published on 03.10.2010.

That Respondent No. 1 invited objections from candidates on 28.09.2020. Last date for inviting objection was 29.09.2020. Various aspirants raised the objections in large numbers against the provisional CLAT answer keys, details of which are available on official portal. A copy of notification for inviting objections dated 28.09.2020 is annexed herewith and marked as **Annexure P/5 [page 93]**.

12. That the Petitioners wish to highlight the fact that as soon as the scores and answer sheets were released by the Respondent no. 1, instantaneous reactions came in from the students who learnt that their answers had not been marked and recorded correctly by the system.
13. That it is further crucial to note that such concerns were raised by students across the country and not only by some students from a particular city or location. It shows that the concerns are very legitimate and real. Impulsive and prompt reaction of students on Social Media regarding discrepancies in exam illuminate that its not afterthought. A copy of screen shot of discussion amongst aspirants on social media, just

after 'CLAT 2020 Examination' is annexed herewith as **Annexure P/6 [page 94 to page 97].**

14. That it is submitted that the anger and anguish of the aspirants is being widely reflected on various social platforms. Numbers of candidates who have participated in CLAT 2020 have approached advocates through social platform and they have shared their grievance about getting very less score what they estimated from the answer key issued by consortium as well as their admit cards These aspirants are trying to send their vakalatnama but due paucity of time and due to pandemic they are unable to send. It is prayed that this court please treat them also as petitioners in the writ and heard them.

Name	DOB	Admit Card No.
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In above circumstance, a copy of screen shot of objections filed by the students to consortium of NLU is marked herewith and annexed as **Annexure P/7 [page 98 to page 101].**

15. That on 30.09.2020, Consortium of NLU released the provisional marks, based upon the answer key, by sending personal e-mail to the candidates and upon inspecting their answer sheet, the Petitioners were shocked to learn that the system on which CLAT 2020 had been conducted, had wrongly recorded their answers in many places to her prejudice. In other words, while they had chosen a particular option as the correct answer, the system/ software had recorded a totally different option as marked by them. Immediately thereafter, students started to react in this regard on social media platform.
16. That CLAT 2020 was marred by at least three glaring flaws which completely negate the possibility of any integrity and fairness in the exam:
  - a. The Respondent No. 1 used inherently faulty technology for marking and recording the answers marked by the candidates. Several candidates have complained that their answers were wrongly recorded as evidenced by the answer sheets uploaded by the Respondent No. 1, while many others stated that

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answers were recorded even for questions they had left 'blank' or 'unattempted'.

- b. CLAT 2020 contained heavy texts and was unreasonably lengthy for a 120-minute exam because it was expected from all candidates to read, process and answer the questions at the pace of 2.5 words per second. This standard disproportionately harms students/ applicants from underprivileged and non-English speaking socio-economic backgrounds and is in blatant contravention of Articles 14 & 15 of the Constitution.
- c. Many questions in the exam were absurd, vague, or otherwise incomprehensible. Further, the answer key provided by the Respondent is riddled with errors.

That in light of these facts, the exam process is totally blemished and ought to be quashed for that reason on the grounds of discrimination and arbitrariness under Articles 14 and 15 of the Constitution of India. These faults in the exam are explained in more detail hereinbelow.

17. That as per news reports, many students faced such issues where answers were recorded even for questions left blank i.e. unattempted by the students. A true copy of News Article published in Dainik Bhaskar on 01.10.2020 alongwith it's translated copy is marked herewith and annexed as **Annexure P/8 [page 102 to page 103]**. A true translated copy of News Article published in Dainik Bhaskar on 02.10.2020 alongwith original publishing response of Chairman & Secretary of Consortium is marked herewith and annexed as **Annexure P/9 [page 104 to page 105]**.
18. That a news article was published on 01.10.2020 on TV9 Bharatvarsh with the headline of 'Vivado me Ghira CLAT 2020, Parikshartio ka dava - Answer key me kai jawab gadbad'. Further, a news article was published on 'The Hindu' newspaper on 02.10.2020 showcasing the discrepancies in CLAT 2020 examination. A copy of news article published on The Hindu Newspaper on 02.10.2020 is marked herewith and annexed as **Annexure P/10 [page 106 to page 108]**. A true copy of news report titled 'CLAT technical UX issues cause flood of complaints: Should consortium act or were rules clear?' dated 01.10.2020

published on Legally India is marked herewith and annexed as **Annexure P/11 [page 109 to page 116]**.

19. The Consortium of National Law University issued press release on 3rd October 2020, stating therein that large number of objections are filed because CLAT-2020 had made filing of objections absolutely free.

On the issue of 'coding of software' the grievance committee vide it's press release dated 03.10.2020 observed as follows:-

*"The technical problems raised by the CLAT-2020 candidates were closely examined. Service Provider is using the same software for 11 years and it has always worked perfectly in terms of the answers chosen by the candidates and the response sheet generated by the system. The Committee also noted that TCS iON is the most reputed Service Provider. It has track record of successfully conducting various National Level Admission Tests and the Recruitment Tests such as JEE Mains, JEE Advanced, NEET (PG), GATE, Banking Services Examinations and Railway Recruitment Board Examinations etc.*

*The Expert Committee randomly examined the Audit Log of number of candidates who had raised objections to the response sheet, the Expert Committee did not find any discrepancy between the Clicks made by the candidate as recorded in the Audit Log and the Response Sheet. In fact,*

*the Audit log showed that one candidate had changed the response as many six times and the system recorded the 6th and the final response. Thus the apprehension that earlier response was not changed has no basis”.*

A copy of the press release dated 03.10.2020 issued by Consortium of National Law University is marked herewith and annexed as **Annexure P/12 [page 117 to page 118]**.

20. That further, Consortium issued a Notification dated 03.10.2020 on Modifications in the Questions and Answers wherein they dropped the questions no. 146, 147 & 150 and modified the answers key for questions no. 08, 35 & 148. A copy of Notification dated 03.10.2020 on Modifications in the Questions and Answers issued by Consortium of NLU is marked herewith and annexed as **Annexure P/13 [page to page 119]**.
21. That it is clear that the elitist and exclusionary pattern of CLAT 2020 has a disproportionate impact on students hailing from the lower socio-economic strata of the society. This renders CLAT generally, and CLAT 2020 especially, discriminatory and violative of Articles 14 and 15 of the Constitution of India.

22. That above facts reveal that a glaring drawback in the technology adopted by the Respondent no. 1. It further shows that the software on which the exam was conducted was not properly programmed to ensure integrity, authenticity and coherence between the option in fact chosen by the student and the option recorded by the system. This casts a big question mark on the integrity of the entire exam because it implies that many students would unfairly lose out marks despite choosing the right option, and many others would unfairly gain marks despite choosing a wrong option. As a result, the whole exam is a blemished one and cannot be sustained.
23. That flaws in software are made worse by respondent no. 1 with the fact that the they did not incorporate any mechanism by which the recorded answers would be shown to the candidate/ student at the end of the exam for verification purposes. It would have been a simple technological exercise to provide a consolidated list of all 150 questions and recorded answers before the final submission of the answer script. If this small exercise would have been done, then this would have given an opportunity to the students to verify that the answers they in fact marked are

the ones being shown on the screen. The absence of this basic and minimal transparency mechanism renders CLAT 2020 arbitrary.

24. That all technology must necessarily have a mechanism by which its step-by-step functioning can be studied to identify the precise step(s) at which the technology is behaving erroneously. This is important to avoid what is commonly called the "blackbox" problem, i.e. the inability to study the inner workings of a given technological tool, thereby rendering the tool totally opaque and eliminating the possibility of error correction. While the Respondent has reportedly stated that the "audit trail" of "some" students who have raised objections is being examined, it is not clear how transparent and effective the "audit" system Respondent no. 1 has. It is submitted that the Respondent no. 1 ought to be called upon to explain the program used in the exam software and how it ensures integrity and consonance between answers chosen by the candidates and those recorded by the software. The Respondent also ought to be directed to individually examine the complaints of answer mismatch raised by all the various students as highlighted above.

**25. REGARDING UNREASONABLE LENGTHY DESIGN OF 'CLAT' EXAMINATION**

- a) That a simple word count of the CLAT 2020 question paper reveals that the paper comprised of roughly 18,600 words in total (calculated after excluding ancillary words such as question numbers and exam title etc.). In view of the time limit of two hours (120 minutes) given to every student to solve the question paper, it is clear that students were expected to read, process and respond to questions at the unreal speed of 155 words per minute or 2.6 words per second.
- b) That it would be manifestly unreasonable and arbitrary to expect even groomed lawyers to read and process critical information at this pace. Expecting students under the age of 18 to have such superhuman reading and word processing speeds is nothing but a result of a total non-application of mind as regards the length of the paper. On this ground alone, the exam ought to be quashed as arbitrary and violative of Article 14 of the Constitution.
- c) That in addition, it should be kept in mind that students from diverse backgrounds participate in CLAT 2020 which is a

national-level exam that determines entrance into the country's top law schools. All students are not equally well-versed with the English language because of social factors and hence the speed with which different students read and process sentences and passages in English would vary significantly from one student to another. Therefore, to ensure a level playing field in the exam as far as possible, the exam should be much shorter in length so that what gets tested in fact is the intellectual ability of the candidate rather than her familiarity with the English language.

- d) That CLAT is already known for being elitist and exclusionary vis-à-vis students hailing from socially and economically underprivileged backgrounds. Research has shown that a vast majority of students who clear CLAT hail from privileged and English-speaking backgrounds. For instance, the Diversity Survey Report 2018-19 prepared by Late Prof. Shamnad Basheer's Increasing Diversity by Increasing Access (IDIA) project revealed that an astounding 96.50% of students in India's top law schools had English-medium education, while 2.14% were educated in Hindi and the remaining 1.36% in other vernacular languages. The Report found:

“Needless to state, candidates who lack such English proficiency are disadvantaged at two levels: firstly, at the level of CLAT, an entrance examination that demands a high degree of proficiency in English; and secondly, at the level of the law school (in the event that they gain entry), given that most classes are conducted in fairly sophisticated English.”

- e) That in turn, this language-based discrimination results in other significant disadvantages for students from underprivileged backgrounds. For instance, the IDIA Report found that 40.14% of the surveyed students reported a “*culture shock*” in law school owing to their peers using “*high level English*” in conversations. The Report further found that a significant number of students found the academic curriculum to be challenging and were inhibited from participating in extracurricular activities on account of less proficiency in the English language, which in turn led to “*issues of low self-esteem and self-confidence*”. As can be reasonably conjectured, this is a direct result of the fact that the pattern of the CLAT exam is designed in a way so as to favour students from privileged socio-economic backgrounds. The Report goes on to conclude:

*"The student composition continues to reflect a significant majority of financially well-off, English-speaking, urban city-dwellers who are able to afford the rather exorbitant law school expenses. Students with disabilities, students belonging to minority communities, rural backgrounds, those educated in the vernacular medium, and those generally belonging to underprivileged or marginalized communities are only a trickle at this time.*

*IDIA has been working towards creating a more inclusive classroom at the NLUs; but our efforts can convert to a larger and lasting change only if the NLUs themselves work towards bringing about systemic improvements in the eco-system. To this end, we note that some NLUs have institutionalized progressive scholarship policies for the underprivileged<sup>69</sup> and/or fee waivers for IDIA scholars. The efforts of some NLUs in providing academic and social support groups for students to help them integrate better into the law school environment are also praiseworthy. However, the NLUs have still a long way to go before they can be truly considered diverse and inclusive.*

*It has been established, through extensive research and scholarship, that institutes of higher education should be diverse and inclusive. Increased diversity not only means empowerment of students who belong to underprivileged or marginalized backgrounds by providing them with greater access to education, but it*

*also enhances the overall learning experience for students in a university. This is especially true for law schools that espouse values of social justice and equality, and should be seen to be practicing the same. An equally important consideration is the fact that law schools serve as the gateway to the legal profession, and a lack of diversity and representation at law schools could only mean that the legal profession would also end up with an elitist and exclusive workforce. The NLUs must step up and lead by example to address these concerns."*

- f) That importantly, in 2019, Prof. (Dr.) Faizan Mustafa who was then the President and is currently a Permanent Member of the Respondent Consortium had categorically advocated for a more language inclusive approach to CLAT by suggesting the radical measure of conducting CLAT in non-English languages to improve diversity. Prof. Mustafa had said:

*"The legal acumen section in CLAT is immoral. We have suggested that the legal acumen section should either be dropped or differently done. The consortium had recently decided that major portion of the CLAT fee will be given to different NLUs so that they offer student scholarships, improve amenities, e-resources, etc. We don't do justice by conducting the exam only in English. Those not comfortable in English are excluded from*

*these elite institutions. We have to find a way out to improve diversity by conducting CLAT in other languages.”*

**26. REGARDING QUESTION PAPER AND ANSWER KEY FULL OF ERRORS AND ABSURDITIES**

- a) That many questions in CLAT 2020 were such that all four options provided in the question were wrong. By way of illustration, some such questions in the mathematics section were question numbers 146, 147, 148, 149 and 150. (Though later on, few questions are dropped by respondent no. 1). Similarly, the answer key provides wrong answers for several questions including question numbers 5, 6, 8, 14, 16, 19, 35, 45, 103, 122 and 125 which are from the English, Logical Reasoning and Legal Reasoning sections. Many of these questions also had more than one right answers, from among which it was not reasonably possible to choose the “most appropriate” option. All questions are not being reproduced herein for the sake of brevity since most of these questions were based on a long “passage”. The Petitioner craves leave of this Hon’ble Court to refer to the annexed Question Paper and Provisional Answer Key of CLAT 2020 at

the time of oral arguments to demonstrate the evident discrepancies in the questions and answers.

- b) That several other questions were of such a standard that even groomed lawyers would need to do extensive legal research before attempting to answer them, and even after such research no objective answer could be given to these questions. Certain questions were based on opinion rather than fact and were hence not answerable in an “objective” type exam. By way of illustration, the following questions cannot be answered objectively:

*"74. Consider the following situations. Choose the correct option as per the Hicklin's Test.*

*1. A Movie scene where there are rows of Jewish naked men and women, shown frontally, being led into the Gas Chambers of Nazi Concentration Camp. Not only they are about to die but they are stripped off their basic dignity in the last moments of their life.*

*2. The controversial movie scene of Phoolan Devi, the Bandit queen where she is paraded naked*

*and made to draw water from the well within the circle of a hundred men.*

- a) 1 is Obscene but 2 is not.*
- b) 2 is Obscene but 1 is not.*
- c) Both 1 and 2 are Obscene.*
- d) Neither 1 and 2 are Obscene.*

**CORRECT ANSWER : OPTION C**

*75. An activist, while being semi-nude, allowed her body to be used as a canvas to paint on by her two minor children who were properly clothed. She uploaded this video of hers on an online platform with a message that she intended to normalise the female form for her children and not allow distorted ideas about sexuality to pervade their mind. An advocate who sees the video, registers a case of Obscenity against her. Is it a case of Obscenity as per the Community Standards Test?*

- a) This is a pure case of Obscenity and she is spreading it.*

- b) *This is a pure case of Obscenity as well as Child Pornography as her children were exposed to her nudity.*
- c) *This is not a case of Obscenity because as per the Community Standards Test the video must not be seen in isolation but in the contextual set up of the message that the activist has put on normalisation of a female's sexuality.*
- d) *This is a case of Obscenity as per the Community Standards Test as the video was blatantly obscene.*

**CORRECT ANSWER : OPTION C"**

- c) That these questions are inherently subjective and no objective answer can be furnished to the same in view of the fact-heavy nature of inquiry in every case of obscenity. In fact, as regards Question 74 above, it may be noted that the answer suggested in the answer key is directly contrary to the judgment rendered by this Hon'ble Court in *Bobby Art International v. Om Pal Singh Hoon, (1996) 4 SCC 1*, where the film was held to be not obscene:

*"32. In the present case, apart from the Chairman, three members of the Tribunal were women. It is hardly to be supposed that three women would permit a film to be screened which denigrates women, insults Indian womanhood or is obscene or pornographic. It would appear from its order that the Tribunal took the view that it would do women some good to see the film.*

*33. We are of the opinion that the Tribunal had viewed the film in its true perspective and had, in compliance with the requirements of the guidelines, granted to the film an 'A' certificate subject to the conditions it stated. We think that the High Court ought not to have entertained the first respondent's writ petition impugning the grant of the certificate based as it was principally upon the slurs allegedly cast by the film on the Gujjar community. We find that the judgment under appeal does not take due note of the theme of the film and the fact that it condemns rape and the degradation of and violence upon women by showing their effect upon a village child, transforming her to a cruel dacoit obsessed with wreaking vengeance upon a society that has caused her so much psychological and physical hurt, and that the*

*scenes of nudity and rape and the use of expletives, so far as the Tribunal had permitted them, were in aid of the theme and intended not to arouse prurient or lascivious thoughts but revulsion against the perpetrators and pity for the victim.*

*34. The appeals are allowed. The judgment and order under appeal is set aside. The first respondent's writ petition is dismissed. The 'A' certificate issued to the film "Bandit Queen" upon the conditions imposed by the Appellate Tribunal is restored."*

This further goes on to show the inherent subjectivity in the questions asked on the theme of "obscenity", the determination of which is a complex exercise even for experienced lawyers and judges who often rely on determinations made by expert bodies such as the censor board.

d) That the above facts establish beyond doubt that the exam was not only unreasonably long but also that much of the candidates' time was wasted by erroneous, absurd or inherently subjective questions. It is further clear that the

answer key severely lacks accuracy and cannot be the basis of preparation of a merit list.

The Writ Petition is being filed based upon the following

**--:: GROUNDS ::--**

- A. Because the Petitioners as well as similarly situated students who are all law aspirants have been treated unfairly and without any fault of theirs in a way that is akin to being convicted for a crime not committed by them. No opportunity to defend themselves and effectively represent their case has been offered to the students as no documents and other evidence have been supplied to them. The actions of the Respondents are against the very basis of the Constitution, a book that they will be taught to hold in high regard in the course of their legal education. It is clear that the essential element of fairness is prima facie lacking in the entire process.
  
- B. Because most of the students / candidates have appeared in at least 2-5 Online center or home exams conducted by other institutions such as BHU Jindal GBU Symbiosis and none of them have such complaints, even there was no such

complaints during mock tests conducted by CLAT consortium. It is further submitted that students who have participated at least 5-10 mocks test conducted by different coaching centers have not encountered such kind of complaints, even during other online tests JEE CAT etc such complaints were never met.

- C. Because neither grievance committee nor the consortium looked into the issues of objections / grievances filed by the petitioners / aspirants in large numbers, however, dealt the same with biased approach in very arrogant way vide their press release dated 03.10.2020.
- D. BECAUSE the unreasonable length of the paper is not only arbitrary for all candidates but also disproportionately harms students from underprivileged or non-English speaking sections of the society, thus further violating Articles 14 and 15 of the Constitution;
- E. Because results, press release etc. declared by the Consortium of NLU, are totally wrong, incorrect, erroneous and therefore, biased due to following reasons:-

1. The candidates have chosen/selected/ticked correct answers; however, it is reflecting in result that wrong & different options have been chosen/selected/ticked.
  2. The result is displaying and calculating marks in those questions, which were not even attempted by the candidates.
  3. Candidates have chosen/selected/ticked different options; however, in result different answers are shown as chosen/selected/ticked.
  4. 10 questions are either itself wrong, or their answers which are uploaded on website are wrong.
- F. BECAUSE the allegations of mismatch between the answers submitted by students such as the Petitioner and the answers ultimately recorded by the system cast huge aspersions on the integrity of the software used and the capability of the exam to test merit;
- G. BECAUSE the technical flaws in the software technology used by the Respondent to conduct CLAT 2020 cast a big shadow over the capability of the exam to test merit and strike at the very root of fairness and integrity of the exam process, thus rendering CLAT 2020 arbitrary and discriminatory and violative of Articles 14 and 15 of the Constitution;

- H. BECAUSE the vagueness and ambiguity of the instructions provided in the exam including the instructions concerning “Clear Response” and “Mark for Review” worsen the arbitrariness and discrimination perpetrated by CLAT 2020 and further violate Articles 14 and 15 of the Constitution;
- I. BECAUSE the lack of a proper and robust accountability mechanism – through which the functioning of the software could be judged with the utmost transparency – also violate the right to know of the Petitioner and other similarly situated students under Article 19(1)(a) and the requirements of reasonableness in Articles 14 and 19(2) of the Constitution;
- J. BECAUSE the net effect of the various issues in CLAT 2020 is the same effect that would be had by incidents of mass cheating and malpractices, for both strike at the root of integrity of the exam process and cast a doubt over the capacity of the exam to test merit;
- K. BECAUSE in *Tanvi Sarwal v. CBSE*, (2015) 6 SCC 573, this Hon’ble Court eloquently explained the crucial significance of integrity, sanctity and authenticity of the exam process in the following words:

*"18. ...As it is, the system of examination pursued over the decades, has been accepted by all who are rational, responsible and sensible, to be an accredited one, for comparative evaluation of the merit and worth of candidates vying for higher academic pursuits. It is thus necessary, for all the role players in the process, to secure and sustain the confidence of the public in general and the student fraternity in particular in the system by its unquestionable trustworthiness. Such a system is endorsed because of its credibility informed with guarantee of fairness, transparency, authenticity and sanctity. There cannot be any compromise with these imperatives at any cost."*

- M. BECAUSE in *Tanvi Sarwal's* case (supra), this Hon'ble Court further held that it is no solution to "segregate" those candidates who benefited from the lapses in the exam process from those who did not benefit, because such an exercise cannot ensure a complete restoration of the sanctity and integrity of the process:

*"19. Segregation only of the already 44 identified candidates stated to be the beneficiaries of the unprincipled manoeuvre by withholding their results for the time being, in our comprehension cannot be the solution to the problem that*

*confronts all of us. Not only thereby, if the process is allowed to advance, it would be pushed to a vortex of litigation pertaining thereto in the foreseeable future, the prospects of the candidates would not only remain uncertain and tentative, they would also remain plagued with the prolonged anguish and anxiety if involved in the ordeal of court cases. Acting on this option, would in our estimate, amount to driving knowingly the students, who are not at fault, to an uncertain future with their academic career in jeopardy on many counts. Further, there would also be a lurking possibility of unidentified beneficiary candidates stealing a march over them, on the basis of the advantages availed by them through the underhand dealings as revealed. Having regard to the fact, that the course involved with time would yield the future generations of doctors of the country, who would be in charge of public health, their inherent merit to qualify for taking the course can by no means be compromised.*

*20. ...Having regard to the uncompromising essentiality of a blemishless process of examination involving public participation, we have no alternative but to hold that the examination involved, suffers from an infraction of its expected requirement of authenticity and credence. We are conscious of the fact that every examination being conducted by a human agency is likely to suffer from some shortcomings, but deliberate inroads into its framework of the magnitude and the nature, as exhibited, in the present case, demonstrate a deep-seated and pervasive impact, which ought not to be disregarded or glossed over, lest it*

*may amount to travesty of a proclaimed mechanism to impartially judge the comparative merit of the candidates partaking therein. If such an examination is saved, merit would be a casualty generating a sense of frustration in the genuine students, with aversion to the concept of examination. The possibility of leaning towards unfair means may also be the ultimate fallout. Even if, one undeserving candidate, a beneficiary of such illegal machination, though undetected is retained in the process it would be in denial of the claim of more deserving candidates. At present, the examination stands denuded of its sanctity as it is not possible to be cleansed of all the participating beneficiary candidates with certainty. We are thus, on an overall assessment of the materials on record, left unpersuaded to sustain the examination. We must observe that till this stage of the investigation, no conscious lapse or omission on the part of the Board, contributing to the otherwise appalling mischief has surfaced."*

- N. BECAUSE in the same vein, this Hon'ble Court in *Gohil Vishvaraj Hanubhai v. State of Gujarat*, (2017) 13 SCC 621 held that the purity of the examination process is of utmost importance and it is not necessary before cancelling the exam that there must be proof of each and every violation that occurred therein:

*"21. Purity of the examination process — whether such examination process pertains to assessment of the academic*

*accomplishment or suitability of candidates for employment under the State — is an unquestionable requirement of the rationality of any examination process. Rationality is an indispensable aspect of public administration under our Constitution. [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489]. The authority of the State to take appropriate measures to maintain the purity of any examination process is unquestionable. It is too well settled a principle of law in light of the various earlier decisions of this Court that where there are allegations of the occurrence of large-scale malpractices in the course of the conduct of any examination process, the State or its instrumentalities are entitled to cancel the examination. This Court has on numerous occasions approved the action of the State or its instrumentalities to cancel examinations whenever such action is believed to be necessary on the basis of some reasonable material to indicate that the examination process is vitiated. They are also not obliged to seek proof of each and every fact which vitiated the examination process.”*

- O. BECAUSE this Hon'ble Court in judgment dated 21.09.2020 in Writ Petition (Civil) No. 1030 of 2020 titled *Rakesh Kumar*

*Aggarwalla & Anr. v. NLSIU & Ors.* discussed the imperative need for the members of the CLAT Consortium to ensure the integrity of the exam process:

*"68. ...CLAT being an All India Examination for different National Law Universities has achieved its own importance and prominence in legal education. The steps taken by National Law Universities to form a Consortium and to cooperate with each other in conduct of CLAT is towards discharge of their public duty entrusted under the different statutes. The duty to uphold its integrity lies on the shoulder of each and every member.*

*69. Thousands of the students who aspire to have a career in law look forward to the CLAT as a prestigious test and CLAT has proved its usefulness and utility in this country. Students look forward to the Consortium for providing correct and fair assessment of the merits of the students....*

*70. ...All members occupying significant and important status have to conduct in fair and reasonable manner to fulfill the aspirations of thousands of students who look on these National Law Universities as institutions of higher learning, personality and career builders. Further the statutes under*

*which National Law Universities have been established cast public duties on these NLUs to function in a fair, reasonable and transparent manner. These institutions of higher learning are looked by society and students with respect and great trust. All NLUs have to conduct themselves in a manner which fulfills the cause of education and maintain the trust reposed on them.”*

- P. BECAUSE the manifest and glaring errors and absurdities in the question paper as well as answer key uploaded by the Respondent vitiate the authenticity of the exam and its capability to test the merit of students;
- Q. BECAUSE the said errors and absurdities render the exam unequal, discriminatory and arbitrary and hence violative of Articles 14 and 15 of the Constitution;
- R. BECAUSE the allegations of mismatch between answers submitted by students and those recorded by the system ought to be thoroughly investigated through a high-powered Committee before any final action – such as declaration of results or conducting the counseling process – is taken by the Respondent;

- S. Because the students including the Petitioners herein are placed at a heightened disadvantage because of the fact that they do not have access to any direct documentary evidence in respect of the events that transpired during the exam, and all evidence is solely in the possession of the Respondents herein. It is therefore requested that the Respondent no. 1 should be made accountable to produce and verify the material so that the claims of the Petitioners and the several other students can be corroborated.
- T. BECAUSE it is in the interests of justice and equity that this Petition be allowed.

**PRAYER**

In light of the facts stated and arguments advanced, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a. declare that 'CLAT 2020' is erroneous, faulty, defective & discriminatory and violative of Articles 14 & 15 of the Constitution of India;
- b. quash 'CLAT 2020' and the impugned press release dated 28.09.2020;

- c. direct the Respondent No. 1 to set up a high-powered committee to examine the complaints regarding 'software glitch' and other objections raised by the students in reference of mismatch between answers marked and answers recorded so as to ensure that the problems do not recur in the next round of CLAT 2020;
- d. direct the Respondent No. 1 to re-conduct CLAT 2020 by ensuring proper mechanisms and safeguards to ensure that the problems highlighted in this petition are not repeated;
- e. direct respondent no. 2 to 3 to issue appropriate regulations to ensure free, fair and smooth examinations;
- f. pass any such other and further orders as may be deemed fit in the facts and circumstances of the case.

FILED ON: 03.10.2020

PLACE: NEW DELHI