

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

D.B. Writ (PIL) Petition No.2497/2015
Kshitij Sharma & Anr. vs. The Bar Council of India & Anr.

Date of Order : 04.03.2015

HON'BLE THE ACTING CHIEF JUSTICE MR.SUNIL AMBWANI
HON'BLE MR. JUSTICE PRAKASH GUPTA

Mr. Kshitij Sharma and
Mr. Abhishek Rao, petitioners in person.
Mr. R.N.Mathur, Sr.Counsel assisted by
Mr. Prateek Mathur, for respondent No.2.

1. We have heard the petitioners, appearing in person, and Shri R.N.Mathur, learned Senior Counsel appearing for the Director/Convenor of Organizing University, Dr.Ram Manohar Lohiya National Law University, the c-Core Committee of Common Law Admission Test-respondent No.2.

2. On 25.02.2015, we had passed the following order:

"1. The petitioners, in this public interest litigation, are students of first year, pursuing their studies in National Law School of India University, Bangalore. They have filed the writ petition, in public interest, for all the students, who are aspiring for admission in Common Law Admission Test, 2015 (for short, 'CLAT'), organized by Dr.Ram Manohar Lohiya National Law University, Lucknow.

2. It is submitted that the maximum age limit for the students, applying for CLAT 2015, in the advertisement made by the organizing University, and uploaded on the website i.e. (<http://clat.ac.in>), as on 01.07.2015 is 20 years in case of general category candidates, and 22 years in the case of ST/SC and persons with disability candidates, as prescribed by the respective Statutes of the participating Universities. The applications, filed by the candidates seeking admission in the sixteen Law Colleges, for which the CLAT is held, over 20 years in case of

general candidates, and 22 years in case of SC/ST candidates, are not being uploaded.

3. It is submitted that thousands of students aspiring to seek admission in CLAT, are unable to apply on account of the age limit, which was fixed in the respective Universities, on the basis of which the Organizing University has fixed the upper age limit, on the prescription of age limit by the Bar Council of India in Clause 28 of Schedule-III Rule 11 of the Legal Education Rules, 2008, vide its resolution No.110/2008 dated 14.09.2008. The Bar Council of India has, thereafter, examined the validity of the Rules, and having considered the judgments of the High Courts including the Allahabad High Court in **Kanha & Anr. vs. Bar Council of India & Anr. [Writ Petition (Civil) No.18551/2014, decided on 29.04.2014]**, and the judgment of Panjab and Haryana High Court in **Ankit Bhardwaj vs. Bar Council of India and another [Civil Writ Petition No.12528/2011, decided on 20.10.2011]** and other cases decided in favour of individuals for CLAT, 2014, withdrawn Clause 28 Schedule-III Rule 11 of the Rules of Legal Education Rules, 2008 vide Notification dated 28.09.2013, published in the Gazette of India on 31.10.2013.

4. It is submitted that after the withdrawal of Clause 28 Schedule-III Rule 11 of the Rules of Legal Education Rules, 2008, the prescription of maximum age, by the Universities, has lost its significance. The prescription of upper age limit is not constitutionally valid, and should not be made applicable to the detriment of thousands of students seeking admission in Law Colleges. The prescription of maximum age has no object to be achieved.

5. It is submitted that on 09.02.2014, learned Single Judge of this Court has also, in S.B. Civil Writ Petition No.1978/2015, Rohan Singh vs. Bar Council of India, passed order dated 09.02.2015, directing the organizing University, Dr.Ram Manohar Lohiya National Law University, Lucknow, not to reject the off-line application form only on the ground that the maximum age limit had been prescribed in the advertisement.

6. It is submitted that it will be extremely harsh for all those students seeking admission in the Law Colleges in India, who have cross the age of 20 years in case of general category, and 22 years in the case of ST/SC and persons with disability, to file individual writ petitions of the High Courts. After withdrawal of the Rule of maximum age limit by the Bar Council of

India vide notification dated 28.09.2013, the filing of repeated writ petitions all over the country by the young students is not in public interest. The aspirants, for admission to Law Colleges, should not be compelled to litigate for seeking orders of acceptance of their applications ignoring the restriction of maximum age limit, for which prescription has been withdrawn by the Bar Council of India.

7. Before hearing the matter, we propose to issue notice to the Bar Council of India and the Organizing University, to give a reply and/or to be heard in the matter.

8. The notices will be served on the Bar Council of India and the Organizing University conducting CLAT, 2015, by speed post as well as e-mail, returnable on 03.03.2015. The Organizing University is also directed to take an informed decision on the issue before submitting the reply.

9. List again on 03.03.2015. A copy of this order be given to the petitioners, appearing in person."

3. Shri R.N.Mathur, learned Senior Counsel appearing for the Organizing University, submits that a decision was taken by sixteen Universities, who have joined together to hold a Common Law Admission Test (CLAT), to fix the maximum age of 20 years as on 01.07.2015, in case of general category candidates, and 22 years in case of SC/ST and persons with disability, for seeking admission in the sixteen Law Universities and Colleges.

4. A preliminary objection has been raised that the petitioners, who are already pursuing studies in National Law School of India University, Bangalore, do not have any cause of action, personal to them to file the writ petition. The sixteen Universities, for whom the Admission Test is being taken by the Organizing University, have not been impleaded as party

respondents, and thus the writ petition may not be entertained.

5. Shri R.N.Mathur further submits that the object of holding the Common Law Admission Test, 2015, is to draw the best talent in the country, for admission to the integrated legal education Course in the sixteen top Universities and Colleges. The prescription of maximum age of 20 years for general category candidates, and 22 years in the case of SC/ST and persons with disabilities, has an avowed object to be achieved.

A student ordinarily passes 10+2 examination at the age of 17. With three chances permitted in CLAT, he/she gets sufficient opportunity to appear in the CLAT upto the age of 20 years. The Bar Council of India may not have competence, on which it has withdrawn the prescription of the maximum age, in Clause 28 of Schedule-III Rule 11 of the Bar Council of India Legal Education Rules, 2008 vide its Resolution dated 14.09.2008, the decision of the Bar Council of India does not restrict the sixteen Universities, who have joined together, to fix the maximum age to appear in CLAT.

6. It is submitted that the maximum age cannot be drawn with any mathematical precision. It can, however, be drawn with the object sought to be achieved, in which, the purpose, in the present case, is best served by prescribing the age of 20 years, in the case of general category candidates, and 22 years in the case of SC/ST and persons with disabilities.

7. Shri R.N.Mathur further submits that the Punjab &

Haryana High Court, while declaring Clause 28 of Schedule-III to Rule 11 of the Bar Council of India Legal Education Rules, 2008, to be *ultra vires* Article 14 of the Constitution of India, had not given sufficient reasons to justify its decision.

8. The petitioners, appearing in person, state that there is no rationality in the decision taken by the c-Core Committee of Common Law Admission Test. The prescription of maximum age of 20 years, causes invidious discrimination, by artificially lowering down the maximum age, depriving a large number of students seeking admission in the 16 best law schools in the country to participate in the CLAT. It is stated that the petitioners have researched, and found that none of the sixteen Universities, participating for CLAT, have prescribed the maximum age in their statutes. The decision was taken by the c-Core Committee of CLAT on its own as an administrative decision, comprising of the representatives of the sixteen Universities, without any statutory base.

9. It is submitted that the argument, that students ordinarily qualify for appearing in the CLAT at the age of 17 years, is not entirely correct, inasmuch as, in our country, a large number of students living in rural and semi urban areas, with various disadvantages suffered by them, as well as hardships to any one or more students due to any particular reason or causes, such as illness, may, by the time, he/she pass 10+2 Examination, crosses the age of 20 years. A large number of

students living in rural areas, are not able to complete 10+2 Examination before the age of 20 years. It cannot be said that for admission in the 16 top Law Colleges, they do not have the best talent. They cannot be deprived of an opportunity to be admitted to the best Law College/s in the country. A preference is also given by the Supreme Court of India and various High Courts to the students of these law schools, to work as Law Clerks and Research Assistants.

10. It is stated by the petitioners that a large number of writ petitions are being filed in the High Courts across the country, in which almost all the High Courts have taken a prima facie view that the age of 20 years, as on 01.07.2015, for general category candidates, is arbitrarily low and is not rational and reasonable. Interim orders have been passed in many writ petitions in the High Courts. Reference has been made to the interim orders in writ petitions, filed in Allahabad High Court between 22.04.2014 to 25.07.2014. Learned Single Judge of the Rajasthan High Court has also passed an interim order on 09.02.2015 in S.B.Civil Writ Petition No.1978/2015, allowing the petitioner to appear in the Common Law Admission Test, 2015 Examination, irrespective of the maximum age, subject to his satisfying all other conditions of eligibility.

11. The Punjab & Haryana High Court has already taken a similar view in the matter.

12. After considering the submissions, we are of the view that

no public purpose will be served, in allowing the students, who have crossed the age of 20 years, to file writ petitions individually in the High Court all over the country, seeking admissions through CLAT. It is thus, in larger public interest, to entertain and hear the writ petition for the benefit of all such students.

13. The last date for submission of the application for Common Law Admission Test, 2015 has been fixed as 31.03.2015.

14. *Prima facie*, we are of the view that considering the withdrawal of Clause 28 of Schedule-III appended to Rule 11 of the Rules of the Bar Council of India Legal Education Rules, 2008, not only on the ground that the Bar Council was not competent, but also the Bar Council felt that the Rule is ultra vires the provisions of Section 7(1)H and (i), 24(1)(c)(iii), and (iiia) or 49(1)(af), (ag), and (d) of the Advocates Act, 1961, and also arbitrary, as it introduces invidious classification by dividing the class of students artificially creating a class by prescribing the maximum age limit for admission in Law Courses, and further on the ground that there is no apparent object to be served in prescribing the age of 20 years. Considering the fact that a large population of the country lives in rural areas, which also forms talent bank, from where the students can be drawn for admission, to the top Law Colleges in the country, we are of the view that it is a fit case, in which

we should grant interim order, directing the Organizing University namely, Dr.Ram Manohar Lohiya National Law University, c-Core Committee of Common Law Admission Test, Lucknow, not to reject the applications of the students/applicants to the Common Law Admission Test, 2015, on the ground that they have crossed the age of 20 years, in case of general category candidates, and 22 years in case of SC/ST and persons with disabilities. Their applications will not be rejected, and that the software for applying online, will be suitably modified, not to block the acceptance of the applications of such students.

15. Shri Mathur has prayed for time upto 12.03.2015 to file reply, and to fix a date before 31.03.2015 for final hearing of the matter.

16. We are of the view that in this case, the Organizing Universities must collectively consider and take an informed decision, in advising the Organizing University in respect of the maximum age to avoid the Organizing University to defend the matter, in the writ petitions in the High Courts across the country. The Organizing Universities may sit together, review their decision in the light of the observations made by us in this interim order. As and when such decision is taken, the Organizing University is given a liberty to approach the Court for fixing a date for hearing.

17. The Director/Convenor of Organizing University, Dr.Ram

Manohar Lohiya National Law University-respondent No.2 will publish a summary of this order on its website. A copy of this order will be given to the petitioners, appearing in person today.

(PRAKASH GUPTA), J.

(SUNIL AMBWANI), ACTING C.J.

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All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.
Mohit Tak, P.A.



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