

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
(UNDER ARTICLE 136 OF THE CONSTITUTION OF INDIA)  
[(ORDER XXI RULE 3(1)(A)]

**SPECIAL LEAVE PETITION (CIVIL) NOS. TO OF 2020**  
(WITH PRAYER FOR INTERIM RELIEF)

[Arising out of the Order dated 29.09.2020 in Writ Petition No.8788/2020, C/w. Writ Petition Nos.8951/2020 and W.P. No.9145/2020 passed by the Hon'ble Division Bench of the Hon'ble High Court of Karnataka at Bengaluru]

POSITION OF THE PARTIES

Before High Court	Before this Hon'ble Court
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**I. SPECIAL LEAVE PETITION NO. OF 2020**  
**IN**  
**WRIT PETITION NO. 8788 OF 2020**

IN THE MATTER OF:

1. The State of Karnataka,  
Department of Parliamentary Affairs  
and Legislation, M.S. Building,  
Dr. Ambedkar Road,  
Bengaluru-560 001.  
Rep by its Secretary.  
KARNATAKA STATE.

.. Respondent **PETITIONER**  
No. 1

VERSUS:

1. Master Balachandar Krishnan,

... Petitioner ... **RESPONDENT**  
**NO.1**

2. Union of India,  
Ministry of Human Resources Development,  
Department of Higher Education,  
127-C, Shastri Bhavan,  
New Delhi 110 001  
Rep. by its Secretary

... Respondent ...**RESPONDENT**  
No. 2 **NO. 2**

3. The Bar Council of India,  
21, Race Ave Institutional Area Road,  
Mata Sundari Railway Colony  
Mandi House, New Delhi 110 002  
Rep. by its Chairman

... Respondent ...**RESPONDENT**  
No. 3 **NO. 3**

4. The National Law School of  
India University,  
Gnana Bharathi Main Road,  
Opposite NAAC,  
Teachers Colony Nagarabhavi,  
Bengaluru-560072

Rep. by its Vice Chancellor

KARNATAKA STATE.

... Respondent      **...RESPONDENT**  
No. 4                      **NO. 4**

**II. SPECIAL LEAVE PETITION NO.              OF 2020**  
**IN**  
**WRIT PETITION NO. 8951 OF 2020**

IN THE MATTER OF:

1. State of Karnataka  
through its Secretary,  
Department of Parliamentary  
Affairs and Legislation,  
M.S. Building, Dr. Ambedkar  
Road, Ambedkar Veedhi,  
Bengaluru – 560 001.  
KARNATAKA STATE.

.. Respondent              **PETITIONER**  
No.1                              No. 1

VERSUS:

1. Mr. Satyajit Sarna

... Petitioner      **... RESPONDENT**  
No.1                      **NO.1**

2. Mr. Nikhil Singhvi

... Petitioner ... **RESPONDENT**  
No.2 **NO.2**

2. The Consortium of National  
Law Universities, through its  
President, P.O. Bag 7201,  
Nagarbhavi, Bangalore – 560 072.  
KARNATAKA STATE.

... Respondent ...**RESPONDENT**  
No. 2 **NO. 3**

3. National Law School of India  
University, Bengaluru,  
Through its Vice-Chancellor,  
Gnana Bharati Main Road,  
Opposite Naac, Teacher's  
Colony Nagarbhavi,  
Bangalore – 560 072.  
KARNATAKA STATE.

... Respondent ...**RESPONDENT**  
No. 3 **NO. 4**

**III. SPECIAL LEAVE PETITION NO. OF 2020**

**IN**

**WRIT PETITION NO. 9145 OF 2020**

IN THE MATTER OF:

1. State of Karnataka  
Department of Parliamentary  
Affairs and Legislation,

Room Number 137, 1st Floor,  
Vidhana Soudha,  
Bengaluru – 560 001.

(Represented by its Secretary)

KARNATAKA STATE.

.. Respondent  
No.1

**PETITIONER**  
No. 1

VERSUS:

1. Bar Council of India  
(A Statutory Body Constituted,  
Governed and Functioning  
Under the Provisions of the  
Advocates Act, 1961) Having its  
Office at 21, Rouse Avenue  
Institutional Area,  
Near Bal Bhawan, New Delhi – 110 002.  
(Represented by its Secretary)

... Petitioner ... **RESPONDENT**  
**NO.1**

2. National Law School of India  
University a University  
Constituted under the  
Provisions of the National Law  
School of India University Act,  
1986 having its Office at  
Gnana Bharathi Main Road,  
Opp. Naac, Teachers Colony,  
Nagarabhavi, Bengaluru – 560 072.  
KARNATAKA STATE.

.. Respondent  
No.2

**RESPONDENT**  
No.2

TO:

THE HON'BLE CHIEF JUSTICE OF INDIA AND  
HIS LORDSHIP'S OTHER COMPANION JUSTICES  
OF THE HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE PETITIONERS  
ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The Petitioner respectfully submit these Petitions seeking Special Leave are being filed against the Order dated 29.09.2020 passed in Writ Petition Nos. 8788/2020, C/w Writ Petition Nos. 8951/2020 and 9145/2020.

**2. QUESTIONS OF LAW:**

The following questions of law arise for consideration before this Hon'ble Court:

a. Whether the Hon'ble High Court of Karnataka erred in entertaining a Public Interest Petition challenging the validity of an enactment without any cause of action?

b. Whether the Hon'ble High Court of Karnataka was right in striking down the validity of the National Law School (Amendment) Act, 2020, on a ground that is alien to the law relating to judicial review of the Constitutional validity of statutes, namely, that the said Amendment providing for 25% horizontal reservation to students of Karnataka is contrary to the intent and spirit of the National Law School Act, 1986?

c. Whether the Hon'ble High Court of Karnataka was right in holding that National School of India University is not an aided institution despite the admitted fact that the University has been provided with annual financial aid and land on lease at a concessional rate by the State of Karnataka?

d. Whether the Hon'ble High Court of Karnataka was right in holding that the State does not have the power to direct the Law School to provide reservations for students in view of the limited role of the State under the Act, despite expressly holding that the State has legislative competence to pass the impugned Amendment Act?

e. Whether the Hon'ble High Court of Karnataka was right in holding that the impugned Amendment Act is invalid as it encroaches upon the power vested in the authorities established under the Act?

f. Whether the Hon'ble High Court of Karnataka was right in holding that the impugned amendment, under which 25% horizontal reservation has been provided to students of Karnataka, is violative of Article 14, as it has no nexus to the object sought to be achieved by the Act?

g. Whether the Hon'ble High Court of Karnataka was right in holding that the impugned Amendment Act does not advance the State's interest, a ground on which this Hon'ble Court has permitted reservation on the basis of institutional preference/residence?

h. Whether the Hon'ble High Court was right in holding that the judgments rendered by this Hon'ble Court

upholding the validity of reservation on the basis of institutional preference/residence are inapplicable to the instant case merely because the said judgments relate to admission in medical institutions and not law colleges?

**3. DECLARATION IN TERMS OF RULE 3(2):**

The Petitioner states that no other Petition seeking leave to Appeal has been filed by them against the impugned Order dated 29.09.2020 passed by the learned Division Bench of the Hon'ble High Court of Karnataka at Bengaluru Hon'ble High Court of in Writ Petition No. 8788/2020, C/w Writ Petition Nos. 8951/2020 and 9145/2020.

**4. DECLARATION IN TERMS OF RULE 5:**

The Annexures P-1 to P-8 are produced along with the Special Leave Petitions are true copies of the pleadings and documents which are part of the records of the case in the Court below against whose Order the Special Leave to Appeal is sought for in this Petition.

**5. GROUNDS:**

A. That the impugned judgment of the Hon'ble High Court of Karnataka is erroneous and liable to be set aside by this Hon'ble Court. At the outset, it is submitted that the Public Interest Litigation filed by two alumni of the National Law School ought not to have been entertained by the Hon'ble Court, in view of the judgment of this Hon'ble Court in Guruvayur Devaswom Managing Committee v. C.K. Rajan, (2003) 7 SCC 546, wherein it was held that the High Courts should not



ordinarily entertain a Writ Petition by way of Public Interest Litigation questioning the constitutional validity of a statute. Despite the fact that the said objection was raised in the Statement of Objections filed by the State, the said issue was not considered by the Hon'ble High Court. It is respectfully submitted that the Hon'ble High Court erred in entertaining the said petition and, therefore, the impugned judgment in this regard is liable to be set aside.

B. It is submitted that the Hon'ble High Court of Karnataka has erred in holding the Amendment Act to be invalid on the ground that the said amendment is contrary to the intent and spirit of the Act. In this regard, it is submitted that, as held by this Hon'ble Court in K.S. Puttaswamy (Aadhaar-5J) v. Union of India, (2019) 1 SCC 1, a legislation can be invalidated by a writ Court only on the grounds of: (a) lack of legislative incompetence; (b) violation of Part III of the Constitution or any other constitutional provision; and (c) manifest arbitrariness. Simply put, there is no fourth ground available to a writ court to strike down a legislation in exercise of its powers of judicial review. In the impugned judgment, the Hon'ble High Court has expressly held that the Karnataka State Legislature has the necessary legislative competence to pass the Amendment Act. Having held so, it is respectfully submitted that, the Hon'ble High Court could not have invalidated the amendment merely because it found that the Amendment alters the scheme of reservation envisaged under Act, as originally enacted in 1986. It is submitted in this regard that the finding that the Amendment Act interferes with the scheme of reservation is in itself erroneous, but even assuming that the finding is correct, the same

cannot be a ground to invalidate the amendment, particularly since the competence of the Karnataka State Legislature to pass the impugned amendment is not in dispute. Therefore, the Hon'ble High Court's reasoning and findings in this regard are contrary to the settled principles of law regarding constitutional validity of statutes and the powers of judicial review. The impugned judgment is, accordingly, liable to be set aside by this Hon'ble Court.

C. It is further submitted that the Hon'ble High Court has also erred in holding that the impugned amendment Act usurps the powers of Executive Council of the Law School and is, consequently, contrary to the scheme of the Act and invalid. The said finding is fallacious on two counts. Firstly, assuming this finding to be correct, the same is not one of the recognized grounds on which a writ Court can strike down a piece of legislation. Secondly, the Executive Council is a creation of the State Legislature under the 1986 Act, and it is respectfully submitted that the Hon'ble High Court's findings in this regard tantamount to holding that a decision of an authority created by the State Legislature would supersede and prevail over the very Constitutional authority that created it, namely, the State Legislature. In other words, the Hon'ble High Court has, in effect, held that once a power is conferred on an authority by statute, the Legislature is powerless, in perpetuity, to curtail that power or alter the manner in which such powers are to be exercised. On the other hand, it is respectfully submitted that once legislative competence is established, the State Legislature is the supreme authority, and it would always be open to the competent Legislature, which represents the will of the people, to

do as it pleases in the interest of the public, vis-à-vis an authority created under the statute (provided the action does not offend any Constitutional provision), including curtailing the powers of the or altering the manner in which the authority is to function or exercise its powers. In fact, a competent Legislature is free to even remove the very existence of the authority. Such being the case, it is respectfully submitted that the Hon'ble High Court has erred in invalidating the impugned Amendment on the ground that it interferes with and usurps the powers of the Executive Council. Therefore, on this ground, too, the impugned judgment is erroneous and is liable to be set aside.

D. It is further submitted that the Hon'ble Court has erred in holding that the National Law School of India University is not an aided institution. In this regard, it is submitted that the State had filed extensive material before the Hon'ble High Court to show that the National Law School has been provided with annual aid, as well as 23 acres of land on lease at a concessional rate by the State. It is submitted that the Hon'ble High Court has, however, ignored the indisputable facts in this regard and has instead relied on entirely irrelevant considerations, such as aid having been received from other States, to hold that the Law School is not an aided institution. Therefore, the Hon'ble Court erred in holding that the National Law School of India University is not an aided institution.

E. It is submitted that the Hon'ble High Court has also erred in observing that the National Law School of India University is not a State institution and that it is not within the control of the State. This observation fails to take into

consideration the fact that the Law School was created by an enactment of the Karnataka State Legislature and, therefore, the institution can only be categorized as a State institution. In short, irrespective of the history behind the establishment of the institution and the role played by the Bar Council, the fact of the matter is that the institution owes its very existence to an enactment of the Karnataka State legislature. The Hon'ble High Court has failed to consider this obvious and crucial aspect of the matter but has instead been misguided by the role of the Bar Council and other irrelevant considerations. Therefore, the observations of the Hon'ble High Court in this regard are liable to be set aside by this Hon'ble Court.

F. The Hon'ble Court has further erred in holding that the impugned Amendment Act violates Article 14 of the Constitution, as the reservation sought to be introduced for students of Karnataka does not have a nexus to the object sought to be achieved by the Act. In this regard, it is submitted that the intention of the Legislature in providing for 25% horizontal reservation for students of Karnataka has been set out in detail in the Objects and Reasons of the Amendment Act, as well as in the Statement of Objections and the Additional Statement of Objections filed by the State before the Hon'ble High Court of Karnataka. In its affidavits filed before the Hon'ble High Court, the State had explained the basis for the reservation and how the amendment has a direct nexus to the ultimate object sought to be achieved by the Act, which is to promote legal education and thereby enrich the legal profession and academia both in the State of Karnataka and in the country at large. In short, it is the position of the State that the reservation provided by way of the

impugned Amendment has a direct nexus to the object sought to be achieved by the Act, which is to ensure that the best legal talent, including in the State of Karnataka, is provided with the maximum opportunity to gain an education of the highest standards and pursue career in law, be it in the profession or academia. The Hon'ble High Court has, however, failed to consider the true purport of the reservation and has not only disregarded the explanations offered by the State but also the binding judgments of this Hon'ble Court recognizing reservation on the basis of institutional preference/residence as being Constitutionally valid. Therefore, the Hon'ble Court has erred in holding that the impugned Amendment Act does not have any nexus to the object sought to be achieved by the Act. The impugned judgment is, therefore, liable to be set aside on this ground.

G. It is further submitted that this Hon'ble Court, in a series of judgments, including D.P. Joshi v. State of Madhya Bharat, AIR 1955 SC 334, Kumari N. Vasundara v. State of Mysore, (1971) 2 SCC 22, Pradeep Jain v. Union of India, (1984) 6 SCC 654, Saurabh Chaudri v. Union of India, (2003) 11 SCC 146, and Yatin Kumar Jasubhai Patel v. State of Gujarat, (2019) 10 SCC 1, has upheld the validity of reservations provided on the basis of institutional preference/residence, and held that the said reservations did not offend Article 14 of the Constitution. In Pradeep Jain, this Hon'ble Court observed that a State, which spends its finances in the upkeep and maintenance of an educational institution within its borders, can legitimately confer some benefits of its educational system on its residents, as it would eventually benefit the State itself, for the reason that the

graduates are likely to settle down in the State and serve her interests. Before the Hon'ble High Court, the State explained in detail that one of the interests of the State in providing for 25% horizontal reservation to students who have studied in the State is to ensure that a portion of the talent that is produced by the National Law School is retained within the State, in the larger interests of the State's development. Therefore, the impugned Amendment advances the State's interests, a ground on which this Hon'ble Court has recognized, in Pradeep Jain, as one of the permissible bases for providing reservation on the basis of institutional preference/residence. It is respectfully submitted that the Hon'ble High Court has erred in disregarding the aforesaid judgments solely on the fallacious ground that the said judgments are rendered in the context of Medical Institutions and not Legal Education. It is humbly submitted that the basis for providing reservation on the basis of institutional preference/residence is the same, irrespective of the stream of education. In all of the aforementioned judgments, this Hon'ble Court did not restrict its findings to medical institutions only, nor was it observed that the ratio of the judgments should not be applied to other streams of education. That being the case, it is respectfully submitted that the Hon'ble High Court was bound to follow the judgments of this Hon'ble Court and has erred in disregarding the same on an entirely fallacious basis. Therefore, the Hon'ble High Court's observations in this regard are wholly erroneous and liable to be set aside.

H. It is respectfully submitted that the Hon'ble High Court further erred in holding that the State has not placed any data on record to show that the students of Karnataka are not

represented in the National Law School or that that they are backward. It is submitted in this regard that it was never the case of the State that students of Karnataka are underrepresented or backward and that, therefore, they need to be represented by way of the State's affirmative action. On the other hand, the State's justification for the impugned reservation was, as explained earlier, based on the legitimate expectation that students of Karnataka would gain admission, settle in the State, and serve the State's interest, as well as further the cause of the legal profession/academia. These are the precise reasons set forth by the State before the Hon'ble High Court, and it was never the State's case that students of Karnataka are underrepresented or backward. As submitted earlier and acknowledged by the Hon'ble High Court in the impugned judgment, the State's legitimate interest has been recognized by this Hon'ble Court as one of the valid grounds for providing reservation on the basis of institutional preference/residence. Therefore, it is respectfully submitted that the Hon'ble High Court has completely misguided itself in holding that the State ought to have placed some data on record to show that the impugned reservation was necessary to justify the reservation. Furthermore, the data placed on record by one of the petitioners and relied upon by the Hon'ble High Court is of no relevance whatsoever to the issues that arise for consideration in this case. The Hon'ble High Court has, therefore, failed to consider the true intention and purport of the impugned reservation and, therefore, the judgment is erroneous on this count, too.

I. It is further submitted that the Hon'ble High Court has erred in holding that Karnataka students are already

represented sufficiently in the SC/ST quota on the basis of the judgment of the Hon'ble High Court of Karnataka in Lolaksha vs. The Convener, Common Law Admission Test (CLAT-2009), NALSAR University of Law, ILR 2009 Kar. 3934. It is submitted that the Hon'ble High Court, in passing the above observation, has failed to appreciate and consider both the intention of the impugned reservation and the manner in which horizontal reservations are operationalized, as succinctly explained in the judgments of this Hon'ble Court in Anil Kumar Gupta and others vs. State of U.P. and others, (1995) 5 SCC 173, and Rajesh Kumar Daria vs. Rajasthan Public Service Commission and Others, (2007) 8 SCC 785. In the above judgments, this Hon'ble Court has categorically held that horizontal reservations must always be operationalized in a compartmentalized manner so as to ensure no vertical category is disadvantaged while implementing such reservations. In short, this Hon'ble Court has held that the object of horizontal reservations must always inure to the benefit of all the vertical categories, including the open/general merit category. That being the case, it is submitted that the Hon'ble High Court has erred in counting the number of Karnataka students in the SC/ST vertical and holding that Karnataka students are sufficiently represented. With great respect, this observation is contrary to the very foundations of horizontal reservations and, therefore, the said observations are liable to be set aside.

J. It is further submitted that the Hon'ble High Court's observations regarding "vagueness" of the definition of "students of Karnataka" are also erroneous and without sufficient basis. It is submitted in this regard that the definition does not suffer from



any vagueness. Moreover, the true purport of the definition was clarified by the State before the Hon'ble High Court. It is, therefore, entirely erroneous to hold that the said definition suffers from vagueness. In any event, it is submitted that this cannot be a ground to strike down the validity of the reservation provided by way of the impugned amendment. Therefore, on this count, too, the impugned judgment is erroneous and is liable to be set aside.

K. The Petitioner – State craves leave of this Hon'ble Court to urge further grounds that may be available in law at the time of hearing of this Petition.

#### **6. GROUNDS FOR INTERIM RELIEF:**

It is most respectfully submitted that the impugned judgment of the Hon'ble High Court is erroneous on all counts and is liable to be set aside by this Hon'ble Court. In the impugned judgment, the Hon'ble High Court has held an Amendment Act passed by a competent Legislature to be invalid on a ground on which a legislation can never be invalidated under the scheme of the Indian Constitution and the judgments rendered by this Hon'ble Court. Moreover, even the findings as regards violation of Article 14 are in disregard of the object of the impugned reservations and contrary to a long line of judgments of this Hon'ble Court approving the validity of reservation on the basis of institutional preference/residence. It is submitted that by virtue of the impugned judgment, the laudable objective of the impugned reservation has been invalidated. The judgment imperils not only the State's interests but also the interests of the legal profession and education at large. On the

other hand, no prejudice would be caused if the impugned judgment is stayed, as the intake of the National Law School has been increased in order to ensure that students from State other than Karnataka are provided with an adequate opportunity to gain admission to the institution. Moreover, the impugned amendment provides for horizontal reservation and, therefore, does not gravely impact students from other States. In view of the aforesaid, it is clear that the balance of convenience lies in favour of the petitioner-State. It is, therefore, just and necessary that the impugned judgment dated 29.09.2020 passed by the learned Division Bench of the Hon'ble High Court of Karnataka at Bengaluru in Writ Petition Nos.8788/2020, C/w Writ Petition Nos. 8951/2020 and 9145/2020 be stayed pending disposal of this Petition.

**7. MAIN PRAYER:**

WHEREFORE, in view of the facts and circumstances of the case, the Petitioners respectfully pray that this Hon'ble Court may be pleased to:

- a) Grant Special Leave to Appeal against the Order dated 29.09.2020 passed by the learned Division Bench of the Hon'ble High Court of Karnataka at Bengaluru in Writ Petition Nos. 8788/2020, C/W Writ Petition Nos.8951/2020 and 9145/2020 and
- b) Pass such other order or orders as to this Hon'ble Court may seem fit and proper in the

facts and circumstances of the case, in furtherance of Justice and Equity.

**8. PRAYER FOR INTERIM RELIEF:**

Pending disposal of the above Special Leave Petitions, it is, most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Stay the operation of the Order dated 29.09.2020 passed by the learned Division Bench of the Hon'ble High Court of Karnataka at Bengaluru in Writ Petition Nos. 8788/2020, C/w Writ Petition Nos.8951/2020 and 9145/2020;
- a) Pass such other order or orders as to this Hon'ble Court may seem fit and proper in the facts and circumstances of the case, in the interests of justice and equity.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND, SHALL EVER PRAY.

DRAWN BY:

FILED BY:

(VIKRAM HUILGOL)  
ADDL. GOVT.  
ADVOCATE.

(SHUBHRANSHU PADHI)  
ADVOCATE FOR PETITIONERS  
- STATE OF KARNATAKA.

NEW DELHI

DRAWN ON:

FILED ON: