

ASHOK S.KINAGI	12/11/2021	<p>Heard the learned counsel for the petitioners and also respondents. As common questions are involved in these petitions, common order is passed. 2. Learned counsel for the petitioners submit that this Court passed an order in writ petition No.14389/2020 dated 8th February 2021 directing the Universities that even Semester examinations are concerned, the same shall be assessed on the basis of the internal assessments of the students to an extent of 50% and the remaining 50% of the marks on the basis of performance in the previous semester only (if available). The marks card shall also be issued in the above terms, with respect to the Even Semesters. 3. After the disposal of the said writ petition, the University Grants Commission (UGC) issued guidelines on examination and academic calendar in view of COVID-19 pandemic-July 2021, dated 16th July 2021. In the said guidelines it is mentioned that the provisions contained in the guidelines issued earlier shall apply for the current academic session 2020-21. That as per the guidelines, the terminal semester/final year examinations (2020-21) be compulsorily conducted in off-line (pen and paper)/online/blended (online + offline) mode-by not later than by August 31st 2021. He further submits that Karnataka State Law University (KSLU) has issued a circular dated 17.9.2021 which is contrary to the guidelines issued by University Grants Commission (UGC) on 29.4.2020 which has been continued till as on date. It is further submitted that in the light of ongoing pandemic, respondent No.4, in order to take necessary precautions and safeguard the health of the students and professors alike has continued the guidelines issued on 29.4.2020 to grade the students as part of intermediate semesters based on composite marking. KSLU vide impugned circular and subsequent notification has violated the order by conducting examination for the students part of intermediate semesters, causing a great distress and risk to the lives of the students. The guidelines issued by UGC are statutory in nature and ought to be compulsorily followed. The KSLU not following the guidelines issued by UGC, the action of the KSLU in holding ensuing examinations is contrary to the guidelines issued by UGC. It is contended that the UGC guidelines applies for the academic sessions 2020-21. The guidelines issued by the UGC are binding on all the Universities. There was a second wave of covid-19 and Karnataka had the highest number of active patients of Covid-19 and there was also lock-down, the pandemic still persists. It is contended that Universities other than KSLU have accepted the guidelines issued by the UGC and also the order passed by this Court in W.P Nos.14389/2021, 2197/2021 and 1850/2021 disposed of on 8.2.2021, produced the copy of the notifications issued by the Karnataka University, Dharwad, dated 27.9.2021, Bengaluru City University dated 6.7.2021 and Guru Gobind Singh Indraprashashtha University, Delhi dated 6.7.2021 and Ranichennamma University dated 13.1.2021. It is also further submitted that the impugned circular is contrary to the Karnataka State Law University Examination Ordinance 2014 (for short 'the Ordinance'). As per the Ordinance, it is the duties and responsibility of the Deputy Registrar (Evaluation), that as per regulation No.1, the Deputy Registrar shall issue notifications inviting applications, fixing the dates of commencement of examinations, he or she shall arrange to issue notifications preferably 60 days in advance and also arrange to notify the information of the candidates registered for examination preferably 30 days in advance to the commencement of examination. As per the calendar of events, KSLU has issued a notification contrary to the regulations. Hence, on these grounds the petitioners pray to pass an interim order. 4. Learned counsel appearing for the Bar Council of India (BCI) Submits that no relief has been sought against the BCI in the writ petitions. He further submits that the Bar council will not recognise the degree obtained by the students without appearing for the examination. He further submits that though online classes have started in the month of February 2021, but in the month of March 2021, there was a second wave of Covid-19 pandemic and could not conduct classes. He further submits that in the month of May 2021, the colleges started off-line classes. He further submits that the BCI has no role in conducting examination by the University. 5. Learned counsel appearing for the KSLU submits that the judgment rendered in W.P.No.14389/2020 is applicable for the academic year 2019-20 but not for academic year 2020-21. He further submits that University had directed to conduct classes. Accordingly, colleges have conducted the classes online and offline. He further submits that there was no pandemic persisting in the month of February to May 2021. He further submits that the University is acting according to the press release dated 10.6.2021. He further submits that the University notification relating to the conduct of examination is well within the purview of law and is not contrary to any direction issued by this Court and also the said notification is not against to the UGC guidelines. He further submits that only few students have approached the Court and the students who have not approached the Court will suffer if examinations are postponed. Hence, prayed to rejected the interim prayer. 6. Heard and perused the records and also considered the submissions of the learned counsel for the parties. 7. It is not in dispute that during the year 2020-21 the entire world was hit by covid-19 pandemic and many institutions could not function. Considering the impact of the pandemic on the educational activities of higher education, the UGC was pleased to issue guidelines on examinations and academic calendar for the Universities in view of the covid-19 pandemic and subsequent lock-down</p>
-------------------	------------	---

during April 2020. The guidelines issued by the UGC is based on the recommendations of the expert committee in respect of examinations. Subsequently the UGC has issued guidelines on examination and academic calendar year in view of covid-19 pandemic July 2021. From the perusal of the guidelines 2021, paragraph 2 of the guidelines clearly mentioned that the provisions as contained in the guidelines issued earlier as during April 2020 and September 2020 shall apply for the current academic session 2020-21. As per the earlier guidelines the University was pleased to promote the students on 50% marks on the basis of pattern of internal evaluation adopted by the Universities and remaining 50% marks can be awarded on the basis of performance in previous semester. The said guidelines has been reiterated by the UGC for the academic year 2020-21. The guidelines issued by the UGC was based on experts opinion. The said issue came up for consideration before this Court in the case of RITVIK BALANAGRAJ/ v./ BAR COUNCIL OF INDIA AND OTHERS in W.P.No.14389 of 2020 a/w. W.P.Nos.2197 of 2021, 1850 of 2021. This Court was pleased to observe in paragraph Nos.22 and 26 as under : "22. When we examine contention raised in this writ petitions, this Court finds that much of it stands covered in the decision of the Hon'ble Apex Court. As noticed earlier, the petitioners before the Court are intermediate semester students and not final year students. The relaxation given to the intermediate semester students in the UGC guidelines directing the universities that if situation does not appear to be normal, the grading of the students should be made composite of 50% marks on the basis of internal assessment and remaining 50% on the basis of performance in the previous semesters has been upheld by the Apex Court. 26. Having regard to the grievance raised by the intermediate semester law students and the decision of the Apex Court in the case of Praneeth K (supra) and in the light of the finding of this Court that the decisions of the Bar council and the respondent University not being arrived at on the basis of any experts opinion unlike the guidelines issues by the UGC, this Court is of the considered opinion that if not for cancellation of all the examination, at least even semester examination of the 1st year to 4th year intermediate semester law students requires cancellation". 9. The University on the basis of the order passed by this Court has promoted the students for the next year. The University issued a circular vide Annexure-A dated 17.09.2021 in total disregard and the obedience to the guidelines issued by the UGC. Further the petitioners have produced a copy of the notifications issued by the Karnataka University Dharwad dated 27.9.2021, Bengaluru City University 6.9.2021, Guru Gobind Indraprashastha University, New Delhi dated 6.7.2021 and Visweshwaraiah Technological University. From the perusal of the said notifications, the said Universities have decided that considering the pandemic situation, the Universities have adopted the same method of promotion of intermediate semesters/annuals for even semesters/annual of academic sessions 2020-21. Except the KSLU, all other Universities have adopted the guidelines issued by the UGC. If the students of KSLU are permitted to take up examinations for the academic sessions 2020-21 and the similarly placed students of other Universities are promoted on the basis of the UGC guidelines without taking examination, it amounts to discriminatory and violative of Articles 14 and 21 of the Constitution of India. Article 14 of the Constitution of India guarantees equality before the law and confers equal protection of law. It prohibits the State from denying persons or class of persons equal treatment provided they are equally and similarly situated. The students of KSLU and the students of other Universities have to be treated equally. Thus the action of KSLU is a clear case of discrimination within the students, such a discrimination would be in violation of Article 14 of the Constitution of India. There cannot be a different condition for different students studying in different Universities. Such an action of the KSLU would affect the right of large numbers of students. The learned counsel appearing for the University submits that only few students have approached this Court and they are not entitled to any relief as claimed by them in their writ petitions. The said issue has been answered by the Hon'ble Apex Court in the case of RAVINDRA KUMAR RAI /v/ STATE OF MAHARASHTRA (W.P.(C) No.649/1997 dated 27.2.1998). Subsequently, the Hon'ble Apex Court has referred the judgment in Dr.Narayan Sharma / v./ Dr. V S Pankaj Kr. Lehar (AIR 2000 Supreme Court 72). The Hon'ble Apex Court rejected the contention of the State that the candidate from CBSC Board were small in number and thus they were not entitled to seek relief. Hence, the contention of the learned counsel for the University does not hold good. 10. That the Government of Karnataka has issued a circular dated 23.07.2021 clearly dispensing with the examination for the II and IV semesters in three year degree courses apart from the others. The directions issued by the Government binds on the KSLU as per Sections 9 and 10 of the Karnataka State Law University Act 2009. Sections 9 and 10 of the Act of 2009 (hereinafter referred to as 'the Act of 2009') clearly mandate about the control of the Government over the University and Section 10 confers power on the Government to annul the orders of the KSLU. The KSLU issued impugned circular which is contrary to Sections 9 and 10 of the Act of 2009. During the pendency of these writ petitions, the KSLU has issued time table for the examinations of 3 (three) years and 5(five) years law degrees. As per the time table, the examinations of the LLB commences from 15.11.2021. 11. Thus the matter requires detailed consideration. 12. In view of the above discussion, the petitioners have made out a prima facie case for

grant of an interim order. Accordingly, there shall be a stay of impugned circulars and also all further proceedings pursuant to the impugned circulars till the next date of hearing. Re-list the petitions on 20.12.2021.