

IN THE HIGH COURT OF DELHI AT NEW DELHI
CIVIL ORIGINAL JURISDICTION
W.P. (C) NO. ____ OF 2021
(Under Article 226 of the Constitution of India)

In the matter of:

Somaya Gupta & Ors.

...Petitioner

Versus

Faculty of Law, University of Delhi & Ors.

...Respondents

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Place: Delhi
Date: 28.5.2021

Filed by:

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NOTICE OF MOTION

Sir,

Kindly find the enclosed copy of the Writ Petition being filed in the Hon'ble High Court of Delhi that is likely to be listed before the Hon'ble Court on _____. This is for your information and record. Please take notice accordingly.

Place: Delhi

Filed by:

Date: 28.5.2021

Siddharth Seem

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**IN THE HIGH COURT OF DELHI AT NEW DELHI
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Faculty of Law, University of Delhi & Ors.

...Respondents

Subject: Application for Urgent Listing

Sir,

Kindly treat the enclosed writ petition along with its application as urgent as per the High Court rules. The grounds of urgency is that this petition seeks cancellation of the 4th semester examinations for the current final year students which are scheduled to be held in July 2021, while the final year students are currently studying for their sixth/ terminal semester examinations, as well as for improvement papers for the 2nd semester, which are scheduled to be held in June 2021. Therefore, an urgent hearing has been prayed for.

Place: Delhi

Filed by:

Date: 28.5.2021

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In the matter of:

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Versus

Faculty of Law, University of Delhi & Ors.

...Respondents

COURT FEE

Place: Delhi

Filed by:

Date: 28.5.2021

Siddharth Seem

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SYNOPSIS

1. This Writ Petition seeks cancellation of the 4th semester examinations for the current final year students of Faculty of Law, University of Delhi, who will be appearing for the 6th semester examination in June 2021, and evaluation for the 4th semester on the basis of internal assessments/assignment based evaluation of the students to an extent of 50% and the remaining 50% of the marks on the basis of performance in the immediately previous semester, in terms of the UGC guidelines dated 29.4.2021.
2. The 4th semester exams which were to be conducted in May 2020 for the current final year students, who were then in the second/penultimate year, could not be conducted due to the spread of Covid-19 and the subsequent nation-wide lockdowns. Intermediate semester examinations for several colleges including professional/technical courses were cancelled across the country as well as for all courses in the University of Delhi, in compliance with the UGC Guidelines dated 29.4.2020 which directed Universities to evaluate and promote intermediate semester students on the basis of internal assessments and previous performances.
3. However, following the Bar Council of India's Press Release dated 9.6.2020 and clarification letter to the Faculty of Law dated 24.8.2020 stating that the intermediate students be promoted to the next year and that the students take the exams for the said semester for which they have been so promoted when college reopens, the Faculty of Law took a decision to conduct this leftover 4th

semester examination for the current final year students as and when college reopens.

4. Thereafter the Bar Council of India vide Press Release dated 1.11.2020 modified its earlier Press Release dated 9.6.2020, allowing universities to conduct exams for intermediate semester students either by offline or online mode. It reiterated that intermediate students who were promoted would have to take the exams for the semester they were promoted for, whether by offline or online mode. The said decision of the BCI was quashed by the Hon'ble High Court of Karnataka vide its order dated 8.2.2021 in W.P. No. 14389/2020 titled *Ritvik Balanagraj v. BCI & Ors*, for being in violation of the UGC Guidelines and for 'not being arrived at on the basis of any expert opinion'. The Hon'ble High Court of Karnataka further directed the Karnataka State Law University to assess the even-numbered semesters 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), in compliance with the UGC guidelines for intermediate students.

5. Due to the continuing surge of Covid-19 cases and the devastating second wave that took place in April-May 2021, reopening of the college has not taken place. Resultantly, while the final year students are currently preparing for their 6th semester examinations which are now to be held in June 2021, the Faculty of Law has announced its decision vide Notice dated 23.3.2021 to conduct the 4th semester examinations 15 days after the 6th semester exams end.

6. Given the pandemic crisis and the preceding exams in the middle of this catastrophic situation, it is impossible for the students to study these subjects, which are ordinarily studied over a course of 5-6 months in a semester, in a span of 10-15 days.
7. It is to be noted that the Faculty of Law did not take any steps up till now to conduct any kind of assessment for the 4th semester, and its decision to conduct examinations for the 4th semester with virtually no time for the students to prepare gravely prejudices against the students and is caused solely by the Respondent's inaction.
8. The Petitioners place reliance upon the order dated 8.2.2021 passed by the Hon'ble High Court of Karnataka in W.P. No. 14389/2020 titled *Ritvik Balanagraj v. BCI & Ors.* mentioned above. The relevant portions of the said order are as under:

“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 expert opinion unlike the guidelines issued by the UGC, this Court is of the considered opinion that if not for cancellation of all the examinations, atleast the Even Semester examinations of the 1st to 4th year intermediate semester law students requires cancellation.

27. As held by the Hon'ble Apex Court, there is a rational basis for the decision of the UGC in advising the Universities that in case the situation does not appear to be normal in view of Covid-19, in order to maintain social distancing, safety and health of the students, grading of the students on the basis of the internal assessments and taking 50% of the marks awarded in the previous semester examination, grades can be awarded

to the students of 1st year to 4th year with respect to the Even Semester.

28. Consequently, this Court proceeds to pass the following:

ORDER

i) The impugned Press Release dated 01.11.2020 issued by the Bar Council of India and the Circular dated 09.11.2020 issued by the Karnataka State Law University are quashed and set aside insofar as the intermediate semester examinations are concerned, with respect to the 1st to 4th year Five Year Law students.

ii) The Time Table announced by the Karnataka State Law University along with the notifications dated 13.01.2021 and dated 29.01.2021 insofar as the 1st year to 4th year students are concerned are also hereby quashed and set aside.

iii) The Karnataka State Law University may announce a fresh Time Table with respect to the 1st year to 4th year students of the Five Year Law course, scheduling examinations of the Odd Semesters only.

iv) Insofar as the 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.”

9. Therefore, in light of the above, the Petitioners seek cancellation of the 4th semester examination for the final year students and seek evaluation for the said semester on the basis of internal assessments/assignment based evaluation of the students to an extent of 50% and the remaining 50% of the marks on the basis of performance in the immediately previous semester, in terms of the

UGC guidelines dated 29.4.2021 and as has been done by the University of Delhi for all other courses.

10.Hence this Petition.

List of Dates

Dates	Particulars
January- March 2020	Spread of Covid-19 pandemic all across the world, including India.
15.3.2020	Classes for all the courses suspended by Respondent No. 4, University of Delhi, including for the Respondent No. 1, Faculty of Law.
March- May 2020	Nationwide lockdown imposed and successively extended by Government of India to prevent the spread of Covid-19.
9.4.2020	End semester exams for even-numbered semesters of all years, which were scheduled to happen in May 2020, postponed by Respondent No. 1, Faculty of Law.
29.4.2020	Guidelines issued by the Respondent No. 3, UGC, directing Universities across the country to evaluate intermediate semester students on the basis of internal assessments and previous performances.
4.6.2020	In pursuance of the UGC Guidelines dated 29.4.2020, Notification dated 4.6.2020 issued by the Respondent No. 4, University of Delhi, for intermediate semester/term/year students.
8.6.2020	Notification dated 8.6.2020 issued by Respondent No. 4, University of Delhi, in continuation of the

	Notification dated 4.6.2020, clarifying on the issue related with carry Forward for students appearing in examinations for assessment of Intermediate semester/term students for academic session 2019-20 as one time measure.
9.6.2020	Press Release issued by Respondent No. 2, BCI, directing all Centres of Legal Education to conduct examinations for intermediate semester law students when the college reopens, contrary to the UGC guidelines dated 29.4.2020.
20.8.2020	Notification issued by Respondent No. 1, Faculty of Law, directing intermediate semester students to submit assignments only for the sake of promotion to the next year, and to appear for the examinations for that particular semester from which they have been promoted when the college reopens.
22.8.2020	Notification dated 20.8.2020 put on hold by Respondent No. 1, Faculty of Law, as clarification was sought from BCI with regard to promotion of intermediate year students.
24.8.2020	Letter addressed by Respondent No. 2, BCI, to the Dean of Respondent No. 1, Faculty of Law, clarifying that intermediate semester students were to be promoted without assignments subject to colleges/universities taking examinations for the said students for that semester from which they have been promoted when the college reopens.
25.8.2020	In pursuance of the clarification letter of BCI dated 24.8.2020, Notification dated 25.8.2020 issued by Respondent No. 1, Faculty of Law, withdrawing its

	earlier notification dated 20.8.2020 and stating that all students of first and second year were deemed to be promoted to the second and third year respectively, and that the students would have to clear the end semester examinations when the college reopens.
1.11.2020	Press Release issued by Respondent No. 2, BCI, modifying its earlier Press Release dated 9.6.2020, allowing universities to conduct exams for intermediate semester students either by offline or online mode.
December, 2020	Current final year students of faculty of law appear for 5th semester examinations.
8.2.2021	Order dated 8.2.2021 passed by the Hon'ble High Court of Karnataka in W.P. No. 14389/2020 titled <i>Ritvik Balanagraj v. BCI & Ors.</i> whereby the Hon'ble High Court quashed the BCI notification dated 1.11.2020. The Hon'ble High Court of Karnataka further directed the Karnataka State Law University to assess the even-numbered semesters 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), in compliance with the UGC guidelines for intermediate students.
23.3.2021	Notice issued by Respondent No. 1, Faculty of Law, notifying schedule of exams for the current final year students. The schedule mentioned 2nd semester improvements/essential repeats and 6th semester exams to be conducted in the first half of May,

	2021 and the 4th semester exams in the first of June, 2021.
18.4.2021	Notice issued by Respondent No. 1, Faculty of Law, postponing the May-June, 2021 exams for final year students till further notice.
28.4.2021	Results of 5th semester examinations were declared for the current final year students, 4 months after the conduction of exams.
20.5.2021	Notification issued by Respondent No. 4, University of Delhi, announcing commencement of Final semester exams from 7.6.2021.
24.5.2021	Admit cards of final year students released by Respondent No. 1, Faculty of Law, with a list of subjects that the students are supposed to appear in. This ranges from 10-15 subjects comprising 2nd semester essential repeats/improvements, 4th and 6th semester subjects.
28.5.2021	Hence this Writ Petition.

**IN THE HIGH COURT OF DELHI AT NEW DELHI
CIVIL ORIGINAL JURISDICTION
W.P. (C) NO. ____ OF 2021
(Under Article 226 of the Constitution of India)**

MEMO OF PARTIES

1. Somaya Gupta,
2. Ankur Agraj,
3. Vasudha Singh,
4. Rishab Duggal,
5. Vineet George,
6. Simran Gill,
7. Chitrankit Rana,
8. Ashish Dutta, ...Petitioners

Versus

1. Faculty of Law, University of Delhi,
Through the Dean,
Chhatra Marg, Art Faculty,
University Enclave,
New Delhi- 110007.

2. Bar Council of India,
Through its Secretary,
21, Rouse Avenue, Institutional Area,
New Bal Bhawan, New Delhi- 110002.

3. University Grants Commission,
Through its Chairman,
Bahadur Shah Zafar Marg,
New Delhi- 110002.

4. University of Delhi,
Through the Vice Chancellor,
University Enclave,
New Delhi- 110007.

...Respondents

Place: Delhi
Date: 28.5.2021

Filed by:

Siddharth Seem
Advocate for the Petitioners
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(Under Article 226 of the Constitution of India)

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Somaya Gupta & Ors.

...Petitioner

Versus

Faculty of Law, University of Delhi & Ors.

...Respondents

**WRIT PETITION ON BEHALF OF THE PETITIONERS
UNDER ARTICLE 226 OF THE CONSTITUTION OF
INDIA FOR ISSUANCE OF WRIT/ ORDER/ DIRECTION
AGAINST THE RESPONDENTS TO CANCEL THE
FOURTH SEMESTER EXAMINATIONS FOR THE
CURRENT FINAL YEAR STUDENTS OF FACULTY OF
LAW, UNIVERSITY OF DELHI, AND TO EVALUATE
THE STUDENTS FOR THE SAID SEMESTER IN
ACCORDANCE WITH UGC NOTIFICATION DATED
29.4.2020.**

To,

The Hon'ble Chief Justice of the High Court of Delhi and

His other Companion Justices of the Hon'ble High Court of Delhi

The Humble Petition of the

Petitioner above named:

MOST RESPECTFULLY SHOWETH:

1. That the instant Writ Petition filed under Article 226 of the Constitution of India seeks an appropriate writ, order or direction to cancel 4th semester examinations for the current final year students of Faculty of Law, University of Delhi, and to direct the Respondents to evaluate the students for the 4th semester on the basis of internal assessments/assignment based evaluation of the students to an extent of 50% and the remaining 50% of the marks on the basis of performance in the immediately previous semester, in terms of the UGC guidelines dated 29.4.2021.
2. That the Petitioners No. 1 to 8 are final year students of Faculty of Law, University of Law, and are of the 2018-2021 batch. The Petitioners are public-spirited individuals, and believe that outcome of the proceedings will save the interest of the law student community at large.
3. That the Petitioners have not filed any other petition seeking the same or similar relief as sought in the present petition in this Hon'ble Court or any other court.

Background

4. That the Petitioners who are currently in the final year of the 3-year LL.B. course at Faculty of Law, University of Delhi, were in their second/penultimate year and in the 4th semester in March-May 2020 when the nation-wide lockdown was imposed following the spread of the Covid-19 pandemic. Because of the lockdown, the 4th semester examinations which were to take place in May 2020 could not be conducted.

5. That the final year students appeared for the 5th semester examination in December 2020, and are scheduled to appear for the 6th/terminal semester in June 2021. The Respondent No. 1 Faculty of Law has not taken any steps till date to evaluate the final year students for the 4th semester. This Writ Petition accordingly pertains solely to cancellation of the 4th semester examination for the final year students and alternative evaluation in terms of the UGC Guidelines laid out below.

UGC Guidelines dated 29.4.2020

6. That following the announcement of the nation-wide lockdown by the Government of India to prevent the spread of Covid-19, the Respondent No. 3, University Grants Commission, issued the “UGC Guidelines on Examinations and Academic Calendar for the Universities in View of COVID-19 Pandemic and Subsequent Lockdown” dated 29.4.2020. True copy of the said UGC Guidelines dated 29.4.2020 is attached herewith as **Annexure P-1 at page no. ___ to ___**.
7. That the relevant portion of the UGC Guidelines dated 29.4.2020 are as under:

“5. For intermediate semester/year students, the universities may conduct examinations, after making a comprehensive assessment of their level of preparedness, residential status of the students, status of COVID-19 pandemic spread in different region / state and other factors.

In case the situation does not appear to be normal in view of COVID-19, in order to maintain “social distancing”, safety

and health of the students, grading of the students could be composite of 50% marks on the basis of the pattern of internal evaluation adopted by the universities and the remaining 50% marks can be awarded on the basis of performance in previous semester only (if available). The internal evaluation can be continuous evaluation, prelims, mid-semester, internal assignments or whatever name is given for student progression.

In the situations where previous semester or previous year marks are not available, particularly in the first year of annual pattern of examinations, 100% evaluation may be done on the basis of internal evaluation.

If the student wishes to improve the grades, he/she may appear in special exams for such subjects during next semester.

This provision for intermediate semester examinations is only for the current academic session (2019-20) in view of COVID-19 pandemic, while maintaining safety and health of all the stakeholders and sanctity and quality of examinations.”

**Delhi University Notification dated 4.6.2020 in compliance
with the UGC Guidelines**

8. That following the issuance of the UGC Guidelines mentioned above, the Respondent No. 4, University of Delhi, issued a Notification dated 4.6.2020 titled “Guidelines/Policies related with grading/results for Intermediate Semester/Term/Year students for all UG and PG programmes all streams including

NCWEB and SOL in view of the Covid-19 pandemic as one time measure for the academic session 2019-20”. True copy of the Delhi University Notification dated 4.6.2020 is attached as **Annexure P-2 at page no. ___ to ___.**

9. That the relevant portion of the abovementioned Notification dated 4.6.2020 issued by the Respondent No. 4, University of Delhi, is as under:

“In view of the prevailing situation of Covid-19 Pandemic, it is notified hereby to all concerned that the Intermediate semester/term/year students shall be graded with adopting alternative mode for the same as conducting examinations for Intermediate Semester/Term/Year students (second semester/term/ Ist year and fourth semester/term/IIInd year students) in the conventional mode i.e. pen and paper is not feasible as per the existing government norms of maintaining social distancing and safety and health of the students . The matter was intensively deliberated in the bodies i.e. Task Force constituted by the University in view of Covid-19 and the Working Group on Examinations, based on which it has been decided that as one-time measure, alternative mode of grading for promotion/results shall be adopted as per composite format for calculating the same for the Intermediate semester/term/year students for the academic session 2019-2020 so that students of university can take their career forward.

- Students of intermediate semester/term /year, the grading of the students could be composite of 50% marks on the basis of the pattern of internal

evaluation/assignment based evaluation adopted by the university / colleges/ faculty/ centre wherever applicable and the remaining 50% marks can be awarded on the basis of performance in previous semester/term/year only.”

10. That thereafter, University of Delhi issued Notification dated 8.6.2020, in continuation of the Notification dated 4.6.2020, clarifying on the issue related with carry Forward for students appearing in examinations for assessment of Intermediate semester/term students for academic session 2019-20 as one time measure. This is at **Annexure P-3 at page no. ___ to ___**.
11. That therefore, in all courses of University of Delhi, the UGC Guidelines of 29.4.2020 were implemented, and accordingly exams for the intermediate year students were cancelled, and evaluation was done on the basis of internal evaluation/assignment based evaluation and the performance in the immediately previous semester.

**Press Releases by BCI and Notices issued by
Faculty of Law in violation of UGC Guidelines**

12. That the Respondent No. 2, Bar Council of India, issued a Press Release on 9.6.2020, directing all Centres of Legal Education to promote the intermediate the students and to conduct examinations for intermediate semester law students when the college reopens. True copy of the BCI Press Release dated 9.6.2020 is at **Annexure P-4 at page no. ___ to ___**. The relevant portion of the Press Release is as under:

“4. All Students, except Final year students, will be promoted on the basis of performance of previous year’s marks and marks obtained in the internal examination of the current year. However, it is clarified that after reopening of the colleges/Universities, the Universities shall conduct the end semester examination with respect to the year from which they have been promoted, within a reasonable period of time, though, such promoted students shall continue to study in the year to which they have been promoted, and in case, they are unable to pass/clear any such paper of such end semester exam of the year from which they have been promoted, they shall have to clear the same, before they are granted the degree. In the case of students who have been promoted to the final year as LL.B students, they shall have to pass all papers in order to obtain their degree/s.”

13. That it is humbly submitted that the above Press Release of the Respondent No. 2 BCI was in violation of the UGC Guidelines dated 29.4.2020 as well the Delhi University Notification dated 4.6.2020. While the UGC Guidelines and the Delhi University Notification were issued after deliberations by experts, there is nothing on record to demonstrate any expert opinion forming the basis of the BCI Press Release.

14. That, nevertheless, in pursuance to the said BCI Press Release dated 9.6.2020, the Respondent No. 1, Faculty of Law, issued Notification dated 20.8.2020, directing intermediate semester students to submit assignments only for the sake of promotion to the next year, and to appear for the examinations for that particular semester from which they have been promoted when the college

reopens. True copy of the Notification dated 20.8.2020 issued by Respondent No. 1, Faculty of Law, is attached herewith as **Annexure P-5 at page no. ___ to ___**. However on 22.8.2020, Notification dated 20.8.2020 was put on hold by Respondent No. 1, Faculty of Law, as clarification was sought from BCI with regard to promotion of intermediate year students.

15. That thereafter on 24.8.2020 the Respondent No. 2 BCI addressed a letter to the Dean of Respondent No. 1, Faculty of Law, clarifying that intermediate semester students were to be promoted without assignments subject to colleges/universities taking examinations for the said students for that semester from which they have been promoted when the college reopens. True copy of the letter dated 24.8.2020 addressed by Respondent No. 2, BCI, to the Dean of Respondent No. 1, Faculty of Law, is attached herewith as **Annexure P-6 at page no. ___ to ___**.

16. That accordingly the Respondent No. 1, Faculty of Law, issued Notification dated 25.8.2020, withdrawing its earlier notification dated 20.8.2020 and stating that all students of first and second year were deemed to be promoted to the second and third year respectively, and that the students would have to clear the end semester examinations when the college reopens. True copy of the Notification dated 25.8.2020 issued by Respondent No. 1, Faculty of Law, is attached herewith as **Annexure P-7 at page no. ___ to ___**.

17. That subsequently, the Respondent No. 2 BCI issued another Press Release, dated 1.11.2020, modifying its earlier Press Release dated 9.6.2020, allowing universities to conduct exams for intermediate semester students either by offline or online mode. It

reiterated that intermediate students who were promoted would have to take the exams for the semester they were promoted for, whether by offline or online mode. True copy of the Press Release dated 1.11.2020 issued by Respondent No. 2 BCI is attached herewith as **Annexure P-8 at page no. ___ to ___**.

18. That the abovementioned Press Releases issued by Respondent No. 2 BCI were in violation of the UGC Guidelines and did not keep in mind the interests of the students. For these reasons, the Press Release dated 1.11.2020 issued by the Respondent No. 2 BCI was quashed by the Hon'ble High Court of Karnataka, as discussed below. It is the submission of the Petitioners that as a natural corollary, the Notices issued by the Respondent No. 1, Faculty of Law, are arbitrary and illegal, and deserve to be set aside.

**Quashing of BCI Press Release dated 1.11.2020
by Hon'ble Karnataka High Court**

19. That the Hon'ble High Court of Karnataka vide its order dated 8.2.2021 in W.P. No. 14389/2020 titled *Ritvik Balanagraj v. BCI & Ors.* quashed the BCI notification dated 1.11.2020. The Hon'ble High Court of Karnataka further directed the Karnataka State Law University to assess the even-numbered semesters 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), in compliance with the UGC guidelines for intermediate students. True copy of the order 8.2.2021 passed by the Hon'ble High Court of Karnataka is attached herewith as **Annexure P-9 at page no. ___ to ___**.

20. That the relevant portions of the order dated 8.2.2021 passed by the Hon'ble High Court of Karnataka are as under:

“22. When we examine the contentions raised in these 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 the final year students. The relaxation given to the intermediate semester students in the UGC Guidelines directing the Universities that if the situation does not appear to be normal, the grading of the students could be made composite of 50% marks on the basis of the internal assessments and the remaining 50% on the basis of performance in previous semesters, has been upheld by the Apex Court.

23. Most importantly, the Apex Court has noticed that the UGC constituted an Expert Committee to look into the issue. The Expert Committee has taken into consideration various aspects from various angles and all stakeholders into consideration. On the basis of the report submitted, the UGC proceeded to issue guidelines. It is relevant to notice that in all the guidelines issued by the Bar Council, reference has been made to the UGC guidelines. No doubt, the Bar Council is vested with the power to issue guidelines which would prevail upon all Law Universities, but the Bar Council has not appointed any Expert Committee to go into the issue which is specific to the Law Universities and law students. There is nothing on record which would convince this Court that there was any material before the Bar Council to deviate from the guidelines issued by the UGC. The importance of holding examination for the final year/terminal semester students when compared to the other intermediate semester students has received full attention at the hands of the Apex Court as noticed above.

24. One another important aspect which was deliberated upon during the course of the argument was the hardship and pressure cast on the intermediate semester students in having to write examinations in 12 courses at a stretch. Each year being divided into two semesters, at the end of the Odd semester, an examination would be held, where the student would be taking up examinations in six courses. Similarly, with regard to the next semester viz., the Even semester, examinations would be conducted in six other courses. Unmindful of the difficulties that could be caused to the

intermediate semester students, the impugned Press release and the notification dated 09.11.2020 requires the students to write examinations of both the semesters together.

25. When deliberations happened on this issue, the respondent-University has come up with a fresh Time Table along with a notification dated 29.01.2021. On going through the fresh Time Table, it is evident that the respondent-University has not kept the interest of the students in mind. With regard to the third year LL.B. students, the new timetable has scheduled examinations starting from 15.02.2021 and ending on 26.02.2021, alternating the Odd and Even semester papers everyday. This clearly shows that there is total non-application of mind. Extraordinary situations demand extraordinary decisions, not only by this Court, but also the respondent-University.

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 expert opinion unlike the guidelines issued by the UGC, this Court is of the considered opinion that if not for cancellation of all the examinations, atleast the Even Semester examinations of the 1st to 4th year intermediate semester law students requires cancellation.

27. As held by the Hon'ble Apex Court, there is a rational basis for the decision of the UGC in advising the Universities that in case the situation does not appear to be normal in view of Covid-19, in order to maintain social distancing, safety and health of the students, grading of the students on the basis of the internal assessments and taking 50% of the marks awarded in the previous semester examination, grades can be awarded to the students of 1st year to 4th year with respect to the Even Semester.

28. Consequently, this Court proceeds to pass the following:

ORDER

i) The impugned Press Release dated 01.11.2020 issued by the Bar Council of India and the Circular dated 09.11.2020 issued by the Karnataka State Law University are quashed and set aside insofar as the intermediate semester examinations are concerned, with respect to the 1st to 4th year Five Year Law students.

ii) The Time Table announced by the Karnataka State Law University along with the notifications dated 13.01.2021 and dated 29.01.2021 insofar as the 1st year to 4th year students are concerned are also hereby quashed and set aside.

iii) The Karnataka State Law University may announce a fresh Time Table with respect to the 1st year to 4th year students of the Five Year Law course, scheduling examinations of the Odd Semesters only.

iv) Insofar as the 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.”

21. That reportedly the Hon’ble High Court of Karnataka has declared in another Writ Petition that its decision dated 8.2.2021 mentioned above is applicable not only to the 5-year LL.B. course but also to the 3-year LL.B. course.

22. That, further, it is a well-established principle that a central notification quashed by any High Court will cease to be applicable throughout the country.

23. That in *Kusum Ingots & Alloys Ltd. v. Union of India*, (2004) 6 SCC 254, the Hon’ble Supreme Court held as under:

“22. An order passed on a writ petition questioning the constitutionality of a parliamentary Act, whether interim or final keeping in view the provisions contained in clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act.”

24. Applying the above principle laid down by the Hon'ble Supreme Court, the Hon'ble High Court of Calcutta in *Partha Protim Datta v. Union of India & Anr.*, 2016 SCC OnLine Cal 8511, while hearing a Writ Petition challenging the notification no. S.O. 648(E) dated 3.3.2016 issued by the Secretary, Ministry of Environment, Forest and Climate Change, Government of India, held that since the implementation of the impugned notification had been deferred by the Karnataka High Court and the Gujarat High Court, no further interim order were necessary to be passed by the Calcutta High Court. The Hon'ble High Court of Calcutta held as under:

“This writ petition registers a challenge to a notification bearing no. S.O. 648(E) dated March 03, 2016 issued by the Secretary, Ministry of Environment, Forest and Climate Change, Government of India.

2. Parties do not dispute that implementation of such notification has been deferred by reason of orders dated March 21, 2016 and April 05, 2016 passed by the Karnataka High Court and the Gujarat High Court respectively.

3. Although the aforesaid orders do not specify the reasons for deferring implementation of the impugned notification with clarity, one cannot lose sight of the observation made by the Hon'ble Supreme Court in paragraph 22 of the decision reported in (2004) 6 SCC 254: *Kusum Ingots & Alloys Ltd. v. Union of India* to the effect that an order staying a parliamentary Act, whether interim or final, would have effect throughout the territory of India, subject of course to the applicability of the Act.

4. There is no reason to pass any further interim order on this writ petition. The notification, insofar as the petitioner is concerned, cannot be implemented in view of the order passed by the Gujarat High Court, which is in general terms and not restricted to the petitioners therein.”

25. That therefore once the BCI Press Release 1.11.2020 has been quashed and set aside, there is no legal basis for the Respondent No. 1, Faculty of Law, to conduct examinations for the 4th semester for the current final year students.

**Schedule of 4th semester announced and
Admit cards issued to students**

26. That in spite of the quashing of the BCI Press Release dated 1.11.2020, the Respondent No. 1, Faculty of Law, issued a Notice dated 23.3.2021 titled “Notice Regarding Schedule of LL.B Classes and Examinations”, notifying the schedule of exams for the current final year students. The schedule mentioned 2nd semester improvements/essential repeats and 6th semester exams to be conducted in the first half of May, 2021 and the 4th semester exams in the first half of June, 2021. True copy of the Notice dated 23.3.2021 issued by the Respondent No. 1, Faculty of Law, is attached herewith as **Annexure P-10 at page no. ___ to ___**.

27. That thereafter the Respondent No. 1, Faculty of Law, issued another Notice dated 18.4.2021 “Notice Concerning the LL.B Course”, postponing the May-June, 2021 exams for final year students till further notice. True copy of the Notice dated

18.4.2021 issued by the Respondent No. 1, Faculty of Law, is attached herewith as **Annexure P-11 at page no. ___ to ___**.

28. That on 20.5.2021, Respondent No. 4, University of Delhi, issued a Notification announcing commencement of Final semester exams from 7.6.2021. True copy of the Notification dated 20.5.2021 issued by Respondent No. 4, University of Delhi, is attached herewith as **Annexure P-12 at page no. ___ to ___**.

29. That Respondent No. 1, Faculty of Law, has issued Admit Cards to the current final year students. A true copy of the Admit Cards issued to the Petitioners are attached herewith collectively as **Annexure P-13 (Colly) at page no. ___ to ___**. A perusal of these Admit Cards shows that the final year students are being expected to take a minimum of 10 and a maximum of 15 subjects within a span of one month, depending on the number of improvement exam/essential repeats for the 2nd semester the students have to appear for.

30. That as Faculty of Law is known for its strict checking and marking, students are given a chance to improve their grade by writing improvement exams. Furthermore, majority of students fail to pass all papers, thus, becoming essential repeaters for the same. Students are given a chance to essentially repeat subjects from a previous odd or even semester, in case of absence or failure to pass, in the subsequent odd or even semester every year. Thus, 2nd semester exams for the 2018-2021 batch should have taken place during May-June 2020. However, due to the nationwide lockdown then, the backlog of even the second semester remains. Therefore by the arbitrary and unjust actions of Respondent No. 1,

Faculty of Law, the current final year students are being expected to appear in examinations for 5 subjects of the 6th semester, 5 subjects of the 4th semester, and up to 5 subjects of 2nd semester for essential repeats/improvements.

31. That many of the petitioners suffered due to Covid-19 in the second wave, some are grieving loss of loved ones, and some coping with mental, emotional and physical effects. This small sample is only representative of the reality of student body at large who are either suffering or recovering from Covid-19 or are in mourning or are coping with the crisis. Therefore the decision of the Respondent No. 1, Faculty of Law, to burden the students with as many as 15 exams within a span of one month is only to the detriment of the students and against justice, and furthermore is illegal, arbitrary, and in violation of Article 14 of the Constitution of India.
32. That hundreds of students of Respondent No. 1, Faculty of Law, have written several and repeated representation letters to the Respondent authorities raising the issues raised in the instant Writ Petition, however no satisfactory action has been taken by the Respondents. It is also to be noted that Respondent No. 1, Faculty of Law, did not take any steps in the last one year to evaluate the final year students for the 4th semester through any evaluation means or mode, and thus its decision to now hold all the 15 examinations in one stretch is arbitrary, unjust and illegal.
33. That it is to be noted that as per the Notification dated 20.5.2021 issued by University of Delhi announcing commencement of Final semester exams from 7.6.2021, however no datesheet has been

released by the Respondent No. 1, Faculty of Law, for any of the semesters for the final year students.

GROUND

34. Based on the facts and circumstances enumerated above, this petition is being filed, inter alia, on the following grounds:

- A. **BECAUSE**, the Hon'ble High Court of Karnataka vide its order dated 8.2.2021 in W.P. No. 14389/2020 titled *Ritvik Balanagraj v. BCI & Ors.* quashed the BCI notification dated 1.11.2020.

- B. **BECAUSE**, the Hon'ble High Court of Karnataka further directed the Karnataka State Law University to assess the even-numbered semesters 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), in compliance with the UGC guidelines for intermediate students.

- C. **BECAUSE**, the Hon'ble High Court of Karnataka in its order dated 8.2.2021 held as under:

“22. When we examine the contentions raised in these 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 the final year students. The relaxation given to the intermediate semester students in the UGC Guidelines directing the Universities that if the situation does not appear to be normal, the grading of the students could be made composite of 50% marks on the basis of the internal assessments and the remaining 50% on the

basis of performance in previous semesters, has been upheld by the Apex Court.

23. Most importantly, the Apex Court has noticed that the UGC constituted an Expert Committee to look into the issue. The Expert Committee has taken into consideration various aspects from various angles and all stakeholders into consideration. On the basis of the report submitted, the UGC proceeded to issue guidelines. It is relevant to notice that in all the guidelines issued by the Bar Council, reference has been made to the UGC guidelines. No doubt, the Bar Council is vested with the power to issue guidelines which would prevail upon all Law Universities, but the Bar Council has not appointed any Expert Committee to go into the issue which is specific to the Law Universities and law students. There is nothing on record which would convince this Court that there was any material before the Bar Council to deviate from the guidelines issued by the UGC. The importance of holding examination for the final year/terminal semester students when compared to the other intermediate semester students has received full attention at the hands of the Apex Court as noticed above.

24. One another important aspect which was deliberated upon during the course of the argument was the hardship and pressure cast on the intermediate semester students in having to write examinations in 12 courses at a stretch. Each year being divided into two semesters, at the end of the Odd semester, an examination would be held, where the student would be taking up examinations in six courses. Similarly, with regard to the next semester viz., the Even semester, examinations would be conducted in six other courses. Unmindful of the difficulties that could be caused to the intermediate semester students, the impugned Press release and the notification dated 09.11.2020 requires the students to write examinations of both the semesters together.

25. When deliberations happened on this issue, the respondent-University has come up with a fresh Time Table along with a notification dated 29.01.2021. On going through the fresh Time Table, it is evident that the respondent-University has not kept the interest of the students in mind. With regard to the third year

LL.B. students, the new timetable has scheduled examinations starting from 15.02.2021 and ending on 26.02.2021, alternating the Odd and Even semester papers everyday. This clearly shows that there is total non-application of mind. Extraordinary situations demand extraordinary decisions, not only by this Court, but also the respondent-University.

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 expert opinion unlike the guidelines issued by the UGC, this Court is of the considered opinion that if not for cancellation of all the examinations, atleast the Even Semester examinations of the 1st to 4th year intermediate semester law students requires cancellation.

27. As held by the Hon'ble Apex Court, there is a rational basis for the decision of the UGC in advising the Universities that in case the situation does not appear to be normal in view of Covid-19, in order to maintain social distancing, safety and health of the students, grading of the students on the basis of the internal assessments and taking 50% of the marks awarded in the previous semester examination, grades can be awarded to the students of 1st year to 4th year with respect to the Even Semester.

28. Consequently, this Court proceeds to pass the following:

ORDER

i) The impugned Press Release dated 01.11.2020 issued by the Bar Council of India and the Circular dated 09.11.2020 issued by the Karnataka State Law University are quashed and set aside insofar as the intermediate semester examinations are concerned, with respect to the 1st to 4th year Five Year Law students.

ii) The Time Table announced by the Karnataka State Law University along with the notifications dated

13.01.2021 and dated 29.01.2021 insofar as the 1st year to 4th year students are concerned are also hereby quashed and set aside.

iii) The Karnataka State Law University may announce a fresh Time Table with respect to the 1st year to 4th year students of the Five Year Law course, scheduling examinations of the Odd Semesters only.

iv) Insofar as the 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.”

D. **BECAUSE**, it is a well-established principle that a central notification quashed by any High Court will cease to be applicable throughout the country.

E. **BECAUSE**, in *Kusum Ingots & Alloys Ltd. v. Union of India*, (2004) 6 SCC 254, the Hon’ble Supreme Court held as under:

“22. An order passed on a writ petition questioning the constitutionality of a parliamentary Act, whether interim or final keeping in view the provisions contained in clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act.”

F. **BECAUSE**, applying the above principle laid down by the Hon’ble Supreme Court, the Hon’ble High Court of Calcutta in *Partha Protim Datta v. Union of India & Anr.*,

2016 SCC OnLine Cal 8511, while hearing a Writ Petition challenging the notification no. S.O. 648(E) dated 3.3.2016 issued by the Secretary, Ministry of Environment, Forest and Climate Change, Government of India, held that since the implementation of the impugned notification had been deferred by the Karnataka High Court and the Gujarat High Court, no further interim order were necessary to be passed by the Calcutta High Court. The Hon'ble High Court of Calcutta held as under:

“This writ petition registers a challenge to a notification bearing no. S.O. 648(E) dated March 03, 2016 issued by the Secretary, Ministry of Environment, Forest and Climate Change, Government of India.

2. Parties do not dispute that implementation of such notification has been deferred by reason of orders dated March 21, 2016 and April 05, 2016 passed by the Karnataka High Court and the Gujarat High Court respectively.

3. Although the aforesaid orders do not specify the reasons for deferring implementation of the impugned notification with clarity, one cannot lose sight of the observation made by the Hon'ble Supreme Court in paragraph 22 of the decision reported in (2004) 6 SCC 254: *Kusum Ingots & Alloys Ltd. v. Union of India* to the effect that an order staying a parliamentary Act, whether interim or final, would have effect throughout the territory of India, subject of course to the applicability of the Act.

4. There is no reason to pass any further interim order on this writ petition. The notification, insofar as the petitioner is concerned, cannot be implemented in view of the order passed by the Gujarat High Court, which is in general terms and not restricted to the petitioners therein.”

- G. **BECAUSE**, once the BCI Press Release 1.11.2020 has been quashed and set aside by the Hon’ble Karnataka High Court, there is no legal basis for the Respondent No. 1, Faculty of Law, to conduct examinations for the 4th semester for the current final year students.
- H. **BECAUSE**, the Guidelines issued by the Respondent No. 3, UGC, directed Universities across the country to evaluate intermediate semester students on the basis of internal assessments and previous performances.
- I. **BECAUSE**, the Notification dated 4.6.2020 issued by the Respondent No. 4, University of Delhi, stated that for all courses “Students of intermediate semester/term /year, the grading of the students could be composite of 50% marks on the basis of the pattern of internal evaluation/assignment based evaluation adopted by the university / colleges/ faculty/ centre wherever applicable and the remaining 50% marks can be awarded on the basis of performance in previous semester/term/year only.”
- J. **BECAUSE**, all intermediate students from other faculties and colleges of University of Delhi except the Faculty of

Law were promoted in accordance with the UGC guidelines.

K. **BECAUSE**, it will be arbitrary and in violation of Article 14 of the Constitution of India to conduct online exams for the 4th semester for the current final year students when all other students from the University of Delhi have been promoted based on previous performance and on assignment based evaluation for their intermediate (even-numbered) semester.

L. **BECAUSE**, it is very unfair and unjust for the said students to languish in such bewilderment and uncertainty when the similarly placed students of the University of Delhi in other courses have been relieved of their assessments for the fourth semester by adopting a composite evaluation scheme on the lines of UGC guidelines dated 29.04.2020. The only reason for Respondent No. 1, Faculty of Law, to differ from these guidelines was the directions by the BCI dated 9.6.2020, 24.8.2020 and 1.11.2021 which stand quashed by the Hon'ble High Court of Karnataka. Thus, there is no reason for the law faculty to conduct the pending fourth semester examinations.

M. **BECAUSE**, the Press Release of the Respondent No. 2 BCI dated 9.6.2020 was in violation of the UGC Guidelines dated 29.4.2020 as well the Delhi University Notification dated 4.6.2020. While the UGC Guidelines and the Delhi University Notification were issued after deliberations by

experts, there is nothing on record to demonstrate any expert opinion forming the basis of the BCI Press Release.

- N. **BECAUSE**, the actions of the Respondent No. 1, Faculty of Law, and the Respondent No. 2 BCI, are not in the interest of the students.
- O. **BECAUSE**, the actions of the Respondent No. 1, Faculty of Law, and the Respondent No. 2 BCI, are arbitrary and illegal, and violate Article 14 of the Constitution of India.
- P. **BECAUSE**, the demand of the Respondent No. 1, Faculty of Law, and the Respondent No. 2 BCI that the final year students appear for up to 15 exams within the span of one month are detrimental to the studies and future of the students, and thus liable to be quashed and set aside.
- Q. **BECAUSE**, the final year students should be evaluated on the basis basis of internal assessments/assignment based evaluation of the students to an extent of 50% and the remaining 50% of the marks on the basis of performance in the immediately previous semester, in terms of the UGC guidelines dated 29.4.2021.
- R. **BECAUSE**, the students should be evaluated to the extent of 50% on the basis of performance in the 3rd semester for two reasons, because:
- i. The current final year students appeared for the 3rd semester examinations in December 2019,

i.e. before the outbreak of the Covid-19 pandemic;

ii. The current final year students have had the opportunity to improve their marks in the 3rd semester subjects by appearing for the improvement examinations in December 2020; and

iii. The current final year students have not had the opportunity to improve their marks in the 2nd semester subjects till now.

S. **BECAUSE**, the Respondent No. 1, Faculty of Law, failed to act in the best interests of the students and did not conduct any assessment/evaluation for the pending 4th semester of the current final year students in the last one year and its decision to now conduct the 4th semester examinations immediately after the 6th semester examinations and the improvement/essential repeat exams for the 2nd semester, in effect holding all the 15 examinations in one stretch for the current final year students is manifestly arbitrary, unjust and illegal, and also in violation of Article 14 of the Constitution of India.

T. **BECAUSE**, many of the petitioners suffered due to Covid-19 in the second wave, some are grieving loss of loved ones, some coping with mental, emotional and physical effects. This small sample is only representative of the reality of student body at large who are either suffering or recovering

from Covid-19 or are in mourning or are coping the crisis. Therefore the decision of the Respondent No. 1, Faculty of Law, to burden the students with as many as 15 exams within a span of one month is only to the detriment of the students and against justice, and furthermore is illegal, arbitrary, and in violation of Article 14 of the Constitution of India.

U. **BECAUSE**, the actions of the Respondent No. 1, Faculty of Law, and its decision to conduct the 4th semester examination for the final year students will lead to an extended session which will be gravely prejudicial to the interests of these final year students as they will not be able to submit their graduation results for pursuing further academic courses or taking an employment.

35. That no similar petition has been filed by the Petitioners before any other court of law seeking similar reliefs.

PRAYER

36. The Petitioner therefore prays that in the facts and circumstances of the present case, this Hon'ble Court may be pleased to:

- a) Pass an appropriate writ, order or direction to the Respondents to cancel the 4th semester examination for the current final year students and to evaluate the final year students for the 4th semester on the basis of internal assessments/assignment based evaluation of the students to an extent of 50% and the remaining 50% of the marks on

the basis of performance in the immediately previous semester only, in terms of the UGC guidelines dated 29.4.2021;

- b) Pass an appropriate writ, order or direction to the Respondents to provide an opportunity to the current final year students to reappear for improvement/ essential repeats for the 4th semester after the result is declared after such internal assessments/assignment based evaluation for the 4th semester;
- c) Pass an appropriate writ, order or direction to the Respondents to declare the results of the 4th semester for the final year students within a period of one month of concluding of such internal assessments/assignment based evaluation for the 4th semester;
- d) Pass an appropriate writ, order or direction to quash and set aside the Press Releases dated 9.6.2020 and 1.11.2020 issued by Respondent No. 2, Bar Council of India, to the extent that they require the current final year students to appear for the 4th semester examinations;
- e) Pass an appropriate writ, order or direction to quash and set aside the Notifications dated 25.8.2020 and the Notices dated 23.3.2021 and 18.4.2021 issued by the Respondent No. 1, Faculty of Law, to the extent that they require the current final year students to appear for the 4th semester examinations;

- f) Pass an appropriate writ, order or direction to the Respondents to declare the results of the 6th and 2nd semester improvements and essential repeats for the final year students within a period of one month from the conclusion of the 6th semester examinations and 2nd semester improvements and essential repeats, respectively; and
- g) Pass any other order deemed fit and proper in the circumstances of the present case.

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

Place: Delhi
Date: 28.5.2021

Filed by:

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