

**THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**  
**&**  
**THE HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

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**W.P. No.811 of 2023**

Between:

Sankella Rambabu.

**.... Appellant**

**And**

- 1) The State of A.P. rep by its Special Chief Secretary and six others.

**....Respondents.**

**W.P. No.9932 of 2023**

Between:

Dhilipala Murali Venkata Kishore

**.... Appellant**

**And**

- 1) The State of A.P. rep by its Special Chief Secretary and six others.

**....Respondents.**

**W.P. No.9984 of 2023**

Between:

Shaik Fazal.

**.... Appellant**

**And**

- 1) The State of A.P. rep by its Special Chief Secretary and six others.

**....Respondents.**

Date of Order pronounced on : 20.09.2023

**HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

1. Whether Reporters of Local newspapers : Yes/No  
may be allowed to see the judgments?
2. Whether the copies of judgment may be marked: Yes/No  
to Law Reporters/Journals:
3. Whether the Lordship wishes to see the fair copy : Yes/No  
of the Judgment?

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***U. DURGA PRASAD RAO, J***

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**VENKATA JYOTHIRMAI PRATAPA, J**

**\* THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO  
&  
THE HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**+ W.P. No. 811 of 2023**

% 20.09.2023

# Sankella Rambabu

**.... Appellant**

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1) The State of A.P. rep by its Special Chief Secretary  
and six others.

**....Respondents.**

**! Counsel for the Petitioner :**

Sri P. Venkata Mohan Rao

Counsel for the Respondents:

G.P. for Higher Education  
Ms. M. Manikya Veena  
Sri K.V.L. Narasimha Rao.  
Mr. Maheswara Rao Kunchem  
Sri Dasari S.V.V.S.V. Prasad  
Ms.S. Parineeta.

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Ms. M. Manikya Veena  
Mr. Maheswara Rao Kunchem  
Sri Dasari S.V.V.S.V. Prasad  
Sri M.C.Reddy.

**+ W.P. No. 9984 of 2023**

# Shaik Fazal

**.... Appellant****And**1) The State of A.P. rep by its Special Chief Secretary  
and six others.**....Respondents.**

! Counsel for the Petitioner :

Sri Basha Shaik

Counsel for the Respondents:

G.P. for Higher Education  
Ms. M. Manikya Veena  
Sri M. Murali Lincon.  
Mr. Maheswara Rao Kunchem  
Sri Dasari S.V.V.S.V. Prasad  
Ms.S. Parineeta

&lt;Gist :

&gt;Head Note:

? Cases referred:

1. W.P.No.26257/2009 and connected cases, dated 16.04.2010
- 2 (2001) 2 SCC 365
- 3 (2011) 6 SCC 597.
- 4 (2009) 11 SCC 726.
- 5 2022 SCC OnLine SC 425
- 6 2023 Law Suit (SC) 316, 2023 LiveLaw (SC) 256.
- 7 (2009) 1 SCC 610
- 8 2019 (2) SCC 404
- 9 W.A.No.597 of 2020 and others Dated 28.12.2021 High Court for the  
State of Telangana
- 10 AIR 2018 Madras 243
- 11 2010(2) ALD 214 (DB)
- 1 MANU/SC/0002/1996 = AIR 1996 SC 11

**THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**  
**&**  
**THE HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**Writ Petition Nos. 811, 9932 and 9984 of 2023**

**COMMON ORDER:-** ( per Hon'ble VJP,J)

The above enumerated W.Ps. are filed under Article 226 of the Constitution of India, by different Petitioners, where all of them similarly pray for a Writ of Certiorarified Mandamus calling for records pertaining to the Admission Notification for 3 years/5 years Law Course for the Academic Year 2022-2023 dated 10.05.2022 issued by the Respondent No.3/The Convener A.P.LAWCET/A.P.PGLCET 2022 and to quash the same insofar as restricting a candidate with I.T.I as basic qualification as not eligible for appearing the LAW CET Examination, being ultra vires to Rule 5 of the Rules of Legal Education, 2008, and to consequently direct the Respondent Nos., 6 to 7 in the respective W.P.s., to admit the Petitioners in W.P.Nos.,811 of 2023 and 9932 of 2023 for LL.B. 3 Years Course and the Petitioner in W.P.No.9984 of 2023 for the LL.B. 5 years Course by quashing his rejection letter dated 11.04.2023. These Writ Petitions were heard together as the prayers are interconnected, the same are disposed of by way of this Common Order.

## **Case of the Petitioners**

2. Before venturing into the determination of the prayers sought, it is essential to draw the contours of necessary facts that are emanating from the W.Ps., as follows;

### **a. W.P.No.811 of 2023:**

i. The Petitioner in W.P.No.811 of 2023 would submit that he qualified in the Entrance Test conducted by A.P. LAW CET, 2022, for joining 3 years BL/LL.B. course securing 7192<sup>nd</sup> rank. He submits that he received a provisional allotment order dated 02.01.2023 for a seat at D.N. Raju Law College/ Respondent No.7. It is stated that he completed S.S.C. in 1996 and secured I.T.I. Certificate in regular mode in 2011 and secured B.A. Degree in 2021.

ii. Petitioner would contend that Respondent No.7 rejected his candidature after all the formalities were completed and this was confirmed by the Respondent No.3. Petitioner would contend that the rule pertaining to non-eligibility of I.T.I. as basic qualification to appear in the LAW CET examination was introduced for the first time in 2022 and no such stipulation was present earlier, thereby calling it as ultra vires of Rule 5 of the Rules of Legal Education, 2008.

iii. Further, petitioner places reliance on decisions rendered by the Madras High Court in W.P.No.22193 of 2022 dated 21.12.2022 (P. Santhru Swaminathan v. Registrar and others), wherein there was a reference of a resolution passed by the Bar Council of India (BCI) to the effect that 3 Years Diploma/Polytechnic Courses shall be considered on par with +2 Certificate for the purpose of admission into 5 years integrated LLB Course; and that of the High Court of Karnataka in W.P.No.200642/2021 dated 08.12.2021 (Mr. Abubakar v. Karnataka State Law University), wherein Respondents were directed to admit the petitioner into 3 years LLB Degree course by accepting I.T.I as equivalent to +2 qualification, where BCI was also a party Respondent. Accordingly, the petitioner herein prays to direct the Respondent Nos.,6 and 7 to admit him into 3 years LLB course for academic year 2022-2023.

**b. W.P.No.9932 of 2013**

i. Petitioner qualified in the Entrance Test conducted by A.P. LAW CET, 2022, for joining 3 years BL/LL.B course, securing 7003<sup>rd</sup> rank. It is stated that he completed SSC in 1996 and secured I.T.I. Certificate in 1999, secured B.A. Degree in 2021 and M.A.in 2016. He submits that he obtained a seat in 3-year LLB course in Respondent No.7/ V.R. Law College, Nellore, Andhra Pradesh. Later, he paid an amount of Rs.13,000/-

towards admission fee and Rs.2,300/- towards Semester Exam fee. He attended the classes regularly from 27.02.2023. After lapse of two months i.e., on 15.04.2023, petitioner came to know that his admission was not confirmed by Respondent No.6 due to his I.T.I Qualification.

ii. Petitioner would submit that the act of the Respondent No.6 in not confirming his admission due to his I.T.I course is against to the provisions of Rules of Legal Education, 2008 as there is no disqualification for the candidates with I.T.I qualification. He would also contend that the restriction imposed in Note.5 of AP LAW CET User Manual and Instructions Booklet by the Respondent No.3 is ultra vires to Rule No.5 of the Rules of Legal Education, 2008 and also violative of Articles 14, 19 and 21 of the Constitution of India. Similarly, reliance was placed on the decisions of the Madras High Court and Karnataka High Court referred supra. Accordingly, the petitioner prays to direct Respondent Nos. 6 and 7 to admit him into 3 years LLB course for academic year 2022-2023.

**c. W.P.No.9984 of 2023**

i. Petitioner therein qualified in the Entrance Test conducted by A.P. LAW CET, 2022, for joining 5-year LLB course. He completed SSC in 2010, secured I.T.I. Certificate in 2013 and obtained seat in 5- Year LL.B. course in Respondent No.7/N.S. Law College, Markapur. He would submit that



he paid an amount of Rs.4,000/- towards admission fee and attended the classes regularly.

ii. Sometime thereafter, he received communication dated 11.04.2023 stating that he is not eligible for 5-year LLB course due to his I.T.I qualification after 10<sup>th</sup> class and thereby his admission was rejected. Petitioner would contend that the Respondent No.7 has no right to reject his admission as there is no such non-eligibility mentioned in the rules of Legal Education, 2008 issued by BCI. Similarly, reliance was placed on the decisions of the Madras High Court and Karnataka High Court referred supra. Accordingly, the petitioner prays to direct the Respondent Nos.,6 and 7 to admit him into 5 years LLB course for academic year 22-23.

3. For easy understanding, cases of Petitioners are mentioned in the following tabular form;

<b>Sl.No</b>	<b>W.P.No. &amp; Petitioner Name</b>	<b>Qualification</b>	<b>Violation of Rule 5</b>	<b>Stage of Rejection</b>
<b>1.</b>	W.P.No.811/2023 Sankella Rambabu (applied for 3 years course)	10 + ITI Course (Electrician Trade)+ B.A.	Not completed 10+2 or equivalent such as 11+1 or equivalent course.	At the time of admission

<b>2.</b>	W.P.No.9932/2023 D. Murali Venkata Kishore ( applied for 3 years course)	10+ITI (Mechanical Motor Vehicle Trade)+B.A. (through Open University)	Not completed 10+2 or equivalent such as 11+1 or equivalent course.	After admission into course.
<b>3.</b>	W.P.No.9984/2023 Shaik Fazal (applied for 5 years course)	10+ITI (Mechanic Refrigeration & Air Condition Trade)	Not completed 10+2 or equivalent such as 11+1 or equivalent.	After admission into course.

### **Version of the Respondents**

**4.** The submission of Respondent No.2/Andhra Pradesh State Council of Higher Education, is that the petitioners should have passed any Graduate Degree (10 + 2+ 3 pattern) of a recognized University with 45% aggregate marks or any other examination recognized as equivalent by the Universities concerned for admission into three-year law course. In User Manual and Instruction Booklet of A.P.LAW Common Entrance Test, 2022, under the header Eligibility for Admission, it is clearly mentioned that a candidate with I.T.I as basic qualification is not eligible for appearing the LAW CET examination. Respondent No.2 would submit that though the petitioners did not actually satisfy the

Educational Qualifications required for admission, they have given an undertaking with incorrect statement that they satisfy the criteria for admission, as such, Respondent No.2 submits that the Respondent No.7 rightly rejected the petitioner's admission into 3 years Law course.

**5.** It is further submitted by Respondent No.2 that the Board of Intermediate Education, Andhra Pradesh has not recognized I.T.I as equivalent to 10+2 qualification of Andhra Pradesh. As per the Legal Education Rules of the Respondent No.4/BCI, 10+2 equivalent from respective Boards of the State Government is mandatory for admission into 3/5 years LLB Programme. Hence, the petitioners are not entitled for admission through AP LAW CET-2022.

**6.** The contention of the Respondent No.3/Convener of A.P.LAW CET- 2022, is that the Petitioners knew that they are not eligible to pursue the course as their basic qualification in I.T.I. is considered to be a trade course which is not equivalent to 12<sup>th</sup> or Intermediate. It is their submission that I.T.I. courses are intended to provide Industry Related Education to high school students and some courses also enable 8<sup>th</sup> graders to apply and that the study does not include language into its curriculum. It is also urged that the Instructions clearly indicate the Rules of BCI and on non-eligibility of I.T.I course for LAW CET examination takers. Despite

this, the Petitioners have applied with complete knowledge of their ineligibility. Moreover, it is submitted that allotment order for LAW CET is provisional and it is for the principals to verify the certificates of the candidates and report any violations. It is submitted that the entire admission procedure is carried on within the rules prescribed by BCI.

**7.** Respondent No.3 also takes reference of the Rule-5 of Bar Council of India Part –IV- Rules of Legal Education,2008 and contends that the BCI clarified the definition of basic qualification and eligibility of candidates for 3-Year and 5-Year Law Courses in its meeting held on 30- 04-2017 reading as follows;

*“It was also held that it is but natural that unless a person seeking admission into 5-year degree course passes 10<sup>th</sup> class which is the basic qualification for the five-year degree, he or she could not have got admission into +2/12<sup>th</sup> passing of which is also required for admission into the five years law course. Similarly, a person would have to pass 12<sup>th</sup> as that would be the basic qualification for the 3-year law course without passing which, he or she could not have got admission into three-year graduation.”*

**8.** It further stated that the BCI governs the law courses and regulates their admission processes through Rules and any deviation thereof would deprive the candidate’s enrollment as an Advocate. The Respondent further stated that the petitioners are wrongly relying on the decision of the Hon’ble High Court of Madras in W.P.No.22193 of 2022, dated 21.12.2002, which is related to 3-

Year Diploma and Polytechnic course issued by the Government shall be considered on par with +2 for the admission into 5 years course where 10<sup>th</sup> class is considered as the basic qualification as per rule 5 of the Bar Council of India. Lastly, the Respondent No.3 would submit that the Writ Petitions filed by the Petitioners are devoid of merits and liable to be dismissed.

**9.** The contention of the Respondent No.4/Bar Council of India is that Legal Education Rules, 2008, are framed to maintain the standards of Legal Education and Recognition of Degrees in law for the purpose of Enrolment as Advocate and inspection of Universities' for recognizing its degree in law under Sections 7 (1) (h) and (i), 24 (1) (c) (iii(a), 49 (1) (af), (ag) and (d) of the Advocates Act, 1961. These rules are framed by the Bar Council of India in consultation with Universities and State Bar councils. It is submitted that the Rule 5 indicates that (10+2+3) is condition precedent for the admission in terms of Legal Education Rules, 2008.

**10.** The Bar Council of A.P., in order to resolve the core issue and to assist this Court addressed a letter dated 07.03.2023, vide RoC.No.80 of 2023 to the Secretary, Board of Intermediate Education, A.P. The latter issued a reply dated 21.03.2023, vide Rc.No.0303/ERTW/2016, which reads as follows;

*“As per the resolution passed in the 74<sup>th</sup> Board Meeting of the Board of Intermediate Education, A.P., under the chairmanship of Hon'ble Minister of HRD, Government of A.P., the Board of Intermediate Education follow norms to issue equivalency certificate: " The Certificate Issuing authority (i.e., Board) must be member Board of COBSE (Council of Boards of School Education) or recognized by COBSE". But the Industrial Training Institute, Andhra Pradesh, is not a member board of CORSE.*

*The Board will issue equivalency to the Institutions/ Organizations registered under COBSE., New Delhi. The candidate passed in All India Trade Test for Craftsman Training scheme Course from Department of Employment and Training, Andhra Pradesh, which is not member board of COBSE. Hence the enclosed certificate is not Equivalent to General Intermediate course offered by The Board of Intermediate Education, Andhra Pradesh."*

**11.**In the light of the above observation made by the Board of Intermediate Education, A.P., it is submitted that the I.T.I course is not equivalent with the Senior Secondary School Course (+2) or equivalent (such as 11+1, 'A' level in Senior School Leaving Certificate Course) i.e., Intermediate course in the State of Andhra Pradesh.

**12.**It is further submitted that the facts in W.P.No.22193 of 2022 on the file of the Hon'ble High Court of Madras and in W.P.No.2000642 of 2021 on the file of Hon'ble High Court of Karnataka are different and distinct as in the A.P. LAW CET,2022 notification there is a specific and categorical condition regarding non-eligibility of I.T.I. as basic qualification to appear the LAW CET

Exam. Further, in **K. Sakthi Rani v. Bar Council of Tamilnadu**<sup>1</sup> before a Division Bench of the Madras High Court, a question arose as to whether the Rules of Legal Education, 2008 are in accordance with the powers conferred under Section 7 (1) (h) & (i), 2 (1) 1 (3) 3(a) and 49(1a) (ag) (af) and (d) of the Advocates Act, 1961 or not. To this, the Hon'ble Division Bench identified the contours under the Rules, Act and various precedents to uphold the constitutional validity. In addition, it is argued that the legal profession is a noble profession and its regulation is utmost essential. It is stated that in support of this view, in **Satish Kumar Sharma v Bar Council of Himachal Pradesh**<sup>2</sup>, the Apex Court held as follows:

*"The profession of law is called a noble profession. It does not remain noble merely by calling it as such, unless there is a continued. corresponding and expected performance of a noble profession. Its nobility has to be preserved, protected and promoted. An institution cannot survive on its past glory alone. The glory and greatness of an institution depends on its continued and meaningful performance with grace and dignity. The profession of law being noble and an honorable one, it has to continue its meaningful, useful and purposeful performance inspired by and keeping in view the high and rich traditions consistent with its grace, dignity, utility and prestige. Hence the provisions of the Act and the rules made there under inter alia aimed to achieve the same ought to be given effect to in their true letter and spirit to maintain clean and efficient Bar in the country to serve the cause of justice which again is a noble one."*

On these grounds, it is prayed that the W.Ps., being devoid of any merits are to be dismissed in limini in the interest of justice.

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<sup>1</sup> W.P.No.26257/2009 and connected cases, dated 16.04.2010

<sup>2</sup> (2001) 2 SCC 365

**Arguments Advanced at the Bar**

**13.** Heard Sri Venkata Mohan Rao Pathakota and Sri Basha Shaik, learned counsel appearing for the petitioners in W.P.Nos.,811, 9932 and 9984 of 2023, learned Government Pleader for Higher Education appearing for Respondent No.1, Ms. S. Parineeta, learned Standing Counsel appearing for Respondent.2/The Andhra Pradesh State Council for Higher Education, Ms. Manikya Veena M, learned Standing Counsel for Padmavathi Mahila University for Respondent No.3, Sri Maheswara Rao Kunchem, learned Counsel for Respondent No.4/Bar Council of India, Sri Dasari S.V.V.S.V.Prasad, learned counsel appearing for Respondent No.5/Bar Council of A.P., in W.P.Nos.,811, 9932 and 9984 of 2023, Sri K.V.L. Narasimha Rao, learned counsel appearing for Respondent No.7 College, Sri M.C.Reddy, learned counsel appearing for the Respondent No.6 and Sri M. Murali Lincon, learned Standing Counsel for Nagarjuna University.



### **Point for Determination**

**14.** Succinctly put, the common issue involved in the present batch of W.P.s is:

Whether the rejection of the candidature of the petitioners for their admission into three years/5 years law degree course due to their ITI qualification is ultra virus to Rule 5 of the B.C.I Rules of Legal Education, 2008 ?

### **Analysis by the Court**

**15.** The petitioners herein seek indulgence of this Court to declare that the process of the selection by the authorities rejecting their candidature for entry into law course based on their I.T.I. qualification is contrary to Rule 5 of the Rules of Legal Education, 2008. The Petitioners also seek a direction for admission into 3 Years/5 Years courses for the academic year 2022-23.

**16.** The Bar Council of India is empowered with the solemn function to regulate the profession of law in India. The incorporation of the BCI, vide Section 4 of the Advocates Act, 1961 stands as a testimony to the commitment in building, protecting, and regulating the legal profession. As such, BCI frames modus operandi in the impartation of legal education. Admissions in law courses are governed by the Rules of Legal Education, 2008. These Rules are framed by the BCI in consultation with the Universities and State Bar Councils in order to provide standards

of legal education and to recognize degrees in law for enrollment. Rule 5 of the said Rules is relevant for the purpose of fruitful discussion and finding on the subject. It reads thus;

**“Rule 5 - Eligibility for admission:**

- (a) ***Three Year Law Degree Course:*** An applicant who has graduated in any discipline of knowledge from a University established by an Act of Parliament or by a State Legislature or an equivalent national institution recognised as a Deemed to be University or foreign University recognised as equivalent to the status of an Indian University by an authority competent to declare equivalence, may apply for a three years’ degree programme in law leading to conferment of LLB Degree on successful completion of the regular program conducted by a University whose degree in law is recognised by the Bar Council of India for the purpose of enrolment.
- (b) ***Integrated Degree Programme:*** An applicant who has successfully completed Senior Secondary School course (+2) or equivalent (such as 11+1, ‘A’ level in Senior School Leaving certificate course) from a recognised University of India or outside or from a Senior Secondary Board or equivalent, constituted or recognised by the Union or by a State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centres of Legal Education to obtain the integrated degree in law with a degree in any other subject as the first degree from the University whose such a degree in law is recognised by the Bar Council of India for the purpose of enrolment.

*Provided that applicants who have obtained +2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission in the Integrated Five Years course or three years LLB course, as the case may be.*

**Explanation:-** *The applicants who have obtained 10 + 2 or graduation/post- graduation through openUniversities system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses.”*

**17.** Rule 5 stipulates a set of conditions required for the admissions into law degree programmes, be it three-year course or integrated programme. In the case of former, vide Rule 5(a), applicant is required to possess graduation in any discipline from a University established by an Act of Parliament or State Legislature or an equivalent national institution that is recognized. Whereas in case of an integrated programme, vide Rule 5(b), applicant is required to have successfully completed Senior Secondary School course (+2) or equivalent (such as 11+1, A level in Senior School Leaving Certificate course) from a recognized University of India or outside or from a Senior Secondary Board or equivalent, constituted or recognized by the Union or by a State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course.

**18.** The proviso says that the applicants who have obtained +2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission in the Integrated Five Years course or three years LLB course. However, the Explanation provides that the applicant who obtained 10+2 or graduation/post-graduation through

Open University System directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses.

**19.** The rule making power to the above extent takes its origin from the Sections 7 and 49 of the Advocates Act.,1961. Section 7 of the Act, 1961 enumerates various functions of the BCI which include to promote legal education and to lay down standard of such education in consultation with the universities in India imparting such education and the State Bar Councils. Section 49 of the Act, 1961 stipulates the general power of the BCI to make rules inter alia vide clause (af) providing the authority to make rules prescribing minimum qualifications required for admission to course of degree in Law in any recognized university.

**20.** In the present case, Bar Council of India in its Counter Affidavit categorically mentioned that the information received from the Bar Council of the Andhra Pradesh State clearly indicates that they have addressed a Letter to the Secretary, Board of Intermediate Education, Andhra Pradesh, seeking clarification as to whether the Certificate obtained in I.T.I is equivalent to the Intermediate course or +2 level recognized by the Board of Intermediate. In response to the said Letter, Board of

Intermediate Education, A.P., gave clarification in the following words:

*"As per the resolution passed in the 74<sup>th</sup> Board Meeting of the Board of Intermediate Education, A.P., under the chairmanship of Hon'ble Minister for HRD, Government of A.P., the Board of Intermediate Education follow norms to issue equivalency certificate:" The Certificate Issuing authority (i.e., Board) must be member Board of COBSE (Council of Boards of School Education) or recognized by COBSE". But the Industrial Training Institute, Andhra Pradesh, is not a member board of CORSE.*

*The Board will issue equivalency to the Institutions/ Organizations registered under COBSE., New Delhi. The candidate passed in All India Trade Test for Craftsman Training scheme Course from Department of Employment and Training, Andhra Pradesh, which is not member board of COBSE. Hence the enclosed certificate is not Equivalent to General Intermediate course offered by the Board of Intermediate Education, Andhra Pradesh."*

**21.** In the same lines, Respondent No.3 i.e., the Convener of the LAW CET, also filed their Counter, stating that the Notification itself is clear as to the non-eligibility of I.T.I candidates in the AP LAW CET. It is not in dispute that the Notification issued by the Convener is clear as to the eligibility of the candidate, who can apply. The petitioners herein having knowledge that they have pursued I.T.I course in the place of the Intermediate submitted their applications under AP LAW CET.

**22.** Respondent No.2/A.P. State Council for Higher Education in its Counter Affidavit categorically stated that the admission of the petitioners was rightly rejected by the authorities as they have furnished incorrect information and failed to satisfy the eligibility criteria. It is further stated that the Board of Intermediate has not recognized I.T.I as equivalent to 10+2 pattern in Andhra Pradesh.

**23.** No contra material is placed on record against the report submitted by the Board of Intermediate Education, A.P. Pertinent to say, since this Court lacks expertise on technical, commercial or scientific matters, most particularly in the matters relating to educational policies, certain restraint has to be maintained. When there is a specific Rule duly framed under the Act prescribing the eligibility criteria for admission into law course, interference of the Court in such processes must only be in exceptional cases where manifest violation of statute is explicit. . At this juncture, it is relevant to cite a few precedents, which speak of the jurisdiction of courts in these matters.

**24. In State of Himachal Pradesh and others v. Himachal Pradesh Nizi Vyavasayik Prishikshan Kendra Sangh,**<sup>3</sup> the Apex Court in the context of highlighting judicial restraint in policy matters, observed that it is the responsibility of the State to provide good education, training and employment and for that purpose it is free to frame or modify decisions based on the circumstances. Further, it is observed that the courts cannot substitute their views in decision of the State in relation to policy matters by sitting as an appellate authority or super legislature, unless the very decision runs contrary to the mandate of the Constitution.

**25. In All India Council for Technical Education v. Surinder Kumar Dhawan and others**<sup>4</sup>, in a series of writ petitions, rejection orders of AICTE not to permit bridge courses for diploma holders and not to permit 10+1 holders to take bridge courses were quashed and approvals were accorded to have bridge courses by High Court. AICTE preferred an appeal before the Apex Court contending that extending such a benefit would be detrimental to the academic standards and jeopardize the entire technical education by leading to

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<sup>3</sup> (2011) 6 SCC 597.

<sup>4</sup> (2009) 11 SCC 726.

several demands for equivalence, lateral entry and lowering of entry qualifications. The Hon'ble Supreme Court having referred to Section 10 of AICTE Act, 1987 held that it is the function of the AICTE to consider and approve introduction of courses in consultation with the concerned agencies and the decision for permitting the bridge courses and the norms to be followed have to be decided by the technical expert i.e., AICTE and not by the courts. In this context, the Apex Court held as follows;

***“16. The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realising the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.***

*17. The role of statutory expert bodies on education and the role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, the courts will step in. In J.P. Kulshrestha (Dr.) v. Allahabad University [(1980) 3 SCC 418 : 1980 SCC (L&S) 436] this Court observed: (SCC pp. 424 & 426, paras 11 & 17)*

*“11. ... Judges must not rush in where even educationists fear to tread.*

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*17. ... While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies.”*

Emphasis supplied



**26.** This view was fortified by a three-Judge Bench of the Apex Court, in **Shikhar and another v. National Board of Examination and others**<sup>5</sup>. In **Unnikrishnan CV and others v. Union of India and others**<sup>6</sup>, the appellants therein possess a Diploma in D.E.D. and not Diploma in Civil Engineering, whereas the rule stipulates promotion to Superintendent BR Garde-1 only to those candidates possessing Diploma in Civil Engineering with 5 years regular service in the grade in General Reserve Engineering Force. The contention of the appellants as to the equivalence of diploma was rejected both at the High Court and the Apex Court. It was held that it is settled law that the courts would not prescribe qualification and/or declare equivalency of a course and until the rule prescribes equivalency i.e., treating different courses alike, courts cannot supplement its views or substitute its views to that of expert bodies.

**27.** In this context, the Apex Court has reiterated the decision rendered in **Guru Nanak Dev University v. Sanjay Kumar Katwal & Anr.**,<sup>7</sup> wherein it was held that equivalence is a technical academic matter and it cannot be implied or assumed

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<sup>5</sup> 2022 SCC OnLine SC 425

<sup>6</sup> 2023 LawSuit (SC) 316, 2023 LiveLaw (SC) 256.

<sup>7</sup> (2009) 1 SCC 610

And the decision of the academic body relating to equivalence should be by specific order or resolution which is duly published. Further on **Zahoor Ahmad Rather & others v. Sheikh Imtiyaz Ahmad and others**<sup>8</sup>, wherein it was observed by judicial review can neither expand the ambit of prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. At para Nos.,8 and 9, Hon'ble Apex Court held as follows:

*“8. The diploma courses offered by College of Military Engineering, Pune, (CME) has been recognized as a course for recruitment to the post under the Central Government vide notification dated 01.02.2001, issued by Ministry of Human Resource Development (Annexure P-8). Said notification does not indicate diploma courses specified therein which are recognized by the Government of India are to be treated as equivalent. No material has been placed on record by the appellants to demonstrate that Diploma in DED is equivalent to Diploma in Civil Engineering.*

*9. The presumption on which the Writ Petition seems to have been presented is on the premise that appellants have been denied promotion on the ground that they possess a two year diploma not three year diploma, by completely ignoring the fact that denial of promotion is on the ground that candidates do not possess the prescribed requisite qualification namely “Diploma in Civil Engineering” and “Diploma in DED” possessed by them is not as prescribed under the Rules. It is no doubt true that eligibility for promotional post namely Superintendent BR Grade-I is not conditioned by any year wise stipulations vis-a-vis the diploma course. In that view of the matter, prayer of the appellants cannot be granted for the reasons indicated hereinabove and we do not find any fallacy in the reasons assigned by the High Court.”*

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<sup>8</sup> 2019 (2) SCC 404

**28.** It is also relevant to refer to the judgment of Hon'ble Division Bench of High Court for the State of Telangana in **M.Naveen Kumar v. State of Telangana**<sup>9</sup>, wherein it was held that in view of the Rules of Legal Education, it is essential to match the criteria to possess a graduate degree as a regular candidate. A Full Bench judgment of the Madras High Court in **G.S.Jagadeesh v. Chairman, Dr.B.R.Ambedkar Open University, Chennai**<sup>10</sup>, was referred for this purpose and it is quoted as follows;

40. *"There is a difference between open universities and other universities and/or boards, in that some of these open universities enable candidates, who do not have the basic qualifications, to obtain higher qualifications straightaway. By prosecuting studies through open universities, it may be possible for a candidate to obtain a Post Graduate Degree or a Three Year LLB Degree without being a graduate or to obtain a graduate degree without having the Senior Secondary School Certificate. In our view, the Bar Council of India, in its wisdom, framed the Legal Education Rules making a graduate degree upon prosecution of a regular course from a university, whose degree in Law is recognized by the Bar Council of India, in a mandatory eligibility criteria.*
41. *Had it been the intention of the Bar Council that for admission to Three Year LLB Course a candidate would be required to obtain all the previous requisite degrees and certificates, such as the Secondary School Certificate and Senior Secondary School Certificate, by prosecuting a regular course, the Legal Education Rules would have specifically provided so.*
42. *The language and tenor of Rules 5(a) and 5(b) read with the first proviso and the Explanation make it amply clear that prosecution of a regular course is mandatory only for the immediately previous qualifying certificate and/or degree, for example,*

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<sup>9</sup> W.A.No.597 of 2020 and others Dated 28.12.2021 High Court for the State of Telangana

<sup>10</sup> AIR 2018 Madras 243

*graduate degree for the Three Year LLB Course and Senior Secondary Certificate for the Integrated Degree Program. Had the Rules intended otherwise, the Rules would have specifically provided that candidates would not be eligible for admission to the Three Year LLB unless they had obtained the Secondary and Senior Secondary Certificates upon prosecution of studies through a regular course or through distance or correspondence mode. The Bar Council of India has, in its wisdom, chosen to frame rules whereunder prosecution of a regular course is mandatory only in respect of the Senior Secondary Certificate for admission to the Integrated Degree Course and in respect of graduation for admission to the Three Year LLB course."*

Emphasis supplied

**29.**In **B. Mallesham v. Bar Council of India, New Delhi and others**<sup>11</sup>, the appellant was denied admission to 3 Year law course on the ground that he had not prosecuted 10+2 and obtained degree through Open university being violative of Rule 5. Prayer was made to quash the Explanation to Rule 5. This Court in para Nos., 42, 44 and 45 held as follows:

*"42. Recognizing the need to update the mandated law curricula in India, the University Grants Commission (UGC), which is a governmental grant-making body responsible for maintaining quality standards in institutions of higher education in India, has periodically convened Curriculum Development Committees of subject experts from Indian universities for law subjects. The UGC Chairman stated the purposes of the model curriculum as follows:*

*In any country, specially one as large and varied as India, academic institutions must be allowed enough autonomy and freedom of action to frame courses according to specific needs. The recommendations of the Curriculum Development Committees are meant to reinforce this. The purpose of our exercise has been to provide a broad common framework for exchange, mobility and free dialogue across the entire*

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<sup>11</sup> 2010(2) ALD 214 (DB)

*Indian academic community. These recommendations are made in a spirit of openness and continuous improvement.*

*44. It is not disputed that all the National Law Schools are insisting 10+2 to prosecute five years law course, but the standards are not uniform in all the law colleges where five years law degree is offered. Therefore, to have uniform standards in the law course either it is five years or three years, the BCI was vested with the jurisdiction to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and confer with the power to make the rules for laying the standards of legal education in consultation with the Universities regulate admission to the law course prescribing the qualification to get admission. When the degree obtained by formal or non-formal methods, though it is of three years duration, both cannot be equated for the purpose of admission into law course. Therefore, graduation degree obtained through regular class is a different class than those who obtained graduation without prosecuting 10+2 qualification. Therefore, the judgments on which reliance is placed by the learned Counsel is not applicable to the facts of the present case.*

*45. Admittedly, the task to maintain legal standards was referred to an expert body like "Legal Education Committee" and the Committee after due deliberation with eminent personnel connected with the law course suggested standards to be maintained to meet the global challenges. The students who obtained, graduation through regular course are well equipped and their accent is different in information and resources once they are in law practice, whereas the students who obtained bachelor's degree under Open University will not be equipped with rare degrees of qualities. Therefore, the curriculum, which was finalised by the BCI, cannot be termed as perverse or irrational to the object sought to be achieved nor can it be termed as arbitrary and illegal."*

**Emphasis supplied**

**30.** Reliance has been placed by the learned counsel for Petitioners on the judgments rendered by the Madras High Court and the Karnataka High Court as stated supra. The judgment of the Karnataka High Court in **Mr.Abubakar v. Karnataka State**

**Law University**, the petitioner impugned the decision of rejection of candidature for admission in 3 year LL.B. course on the ground of his I.T.I. qualification. The learned Single Judge was of the view that neither the Rules nor regulations excluded I.T.I. course in lieu of 10+2 qualification and the Admission Notification therein had not excluded I.T.I. candidates. With this reasoning, the learned Judge directed admission of the petitioner in the course. This Court is unable to concur with the view taken by the learned Single Judge in view of the legal discussion supra. Moreover, in the instant case, the Admission notification has expressly stipulated non- eligibility of I.T.I. candidates.

**31.** The decision of Madras High Court in **P. Santhru Swaminathan v. Registrar and others** involves the challenge to admission in LL.B. Degree course via 10+2+3 stream by a diploma holder in Automobile Engineering. In that matter, the counsel for Bar Council of India submitted a resolution to the effect that 3-year diploma/polytechnic course issued by a Government recognized institution shall be considered as par with +2 certificate for admission to 5 Year LL.B. course. In this case, no contra material is placed on record against the report submitted by the Board of Intermediate Education, A.P. and no equivalency is provided by the respective bodies.

**32.** The Petitioners herein have not challenged the constitutionality of the Rule 5 of Legal Education Rules, 2008. Their grievance is that the authorities have not acted as per Law and rejected their admission into 3/5 years law course being contrary to Rule 5 of the Legal Education, 2008. In the backdrop of the legal position referred supra, it is also trite to state that the Notification itself clearly indicates about the non-eligibility of candidates who passed I.T.I. instead of Intermediate (+2). Despite the same, in varying courses, the Petitioners herein have applied for the entrance examination. The discussion above acutely reveals that the Bar Council of India is competent to frame rules with respect to prescribing minimum qualifications, the Notification for the LAW CET examination has clearly stated the non-eligibility of I.T.I. candidates and that the report submitted by the Board of Intermediate Education, A.P. is against granting equivalency.

**33.** In this scenario, as has been held in various decisions of the Hon'ble Apex Court, this Court cannot substitute or supplant its views to that of expert bodies in academic or technical matters and declare equivalency. If any other

approach is taken by the Court, it would open floodgate of litigation in these technical matters Ultimately wiping away the intendment of expert bodies. In that view of the matter, we do not find any merits in the Writ Petitions.

Date : 20.09.2023

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**ORDER: (Per Hon'ble Sri Justice U. Durga Prasad Rao)**

1. I have gone through the erudited and elucidative judgment of my esteemed Judge sister and while expressing my concurrence, I would like to emphasize the point that the time tested principles including Wednesbury's principles exhort that the constitutional courts will be at loath to indulge in the policy decisions of the executive except when involved in constitutional and statutory violations and unreasonableness in implementation of such policies.

2. In **Tata Cellular v. Union of India**<sup>1</sup>, the Hon'ble Apex Court has, at length happened to discuss this principle. The Apex Court was dealing with the scope of judicial review in respect of the matters concerning the selection of Indian companies who offered bid as a response to the tender notification for licensing the operation of Cellular Mobile Telephone

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<sup>1</sup> MANU/SC/0002/1996 = AIR 1996 SC 11



Service in four metropolitan cities of India. The scope of judicial review in that case was

- (1) Whether selection was vitiated by the arbitrariness, bias and
- (2) Whether the Apex Committee constituted had been by-passed etc.

In the above context, the Apex Court had given the vivid spectrum of the scope of judicial review on the administrative decisions by referring to various decisions including that of the *Wednesbury's* case.

It was observed thus:

**90.** Judicial review is concerned with reviewing not the merits of the decision in support of which the application for judicial review is made, but the decision-making process itself.

**92.** In *R v. Penfold on Take overs and Mergers, ex p Guinness plc* [1990] 1 QB 146 Lord Donaldson MR. referred to the Judicial review jurisdiction as being supervisory or 'longstop' jurisdiction. Unless that restriction on the power of the courts is observed, the court will, under the guise of preventing the abuse of power, be itself guilty of usurping power.

**93.** The duty of the court is to confine itself to the question of legality. Its concern should be:

1. Whether a decision-making authority exceeded its powers?
2. committed an error of law
3. committed a breach of the rules of natural justice
4. reached a decision which no reasonable tribunal would have reached or
5. abused its powers.

**94.** Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfillment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case, shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

(i) Illegality: This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(ii) Irrationality, namely, Wednesbury unreasonableness,

(iii) Procedural impropriety.

**96.** What is this charming principle of Wednesbury unreasonableness? Is it a magical formula? In *Re: v. Askew* [1768] 4 2168, Lord Mansfield considered the question whether mandamus should be granted against the College of Physicians. He expressed the relevant principles in two eloquent sentences. They gained greater value two centuries later:

It is true, that the judgment and discretion of determining upon this skill, ability, learning and sufficiency to exercise and practise this profession is trusted to the College of Physician: and this Court will not take it from them, nor interrupt them in the due and proper exercise of it. But their conduct in the exercise of this trust thus committed to them ought to be fair, can did and unprejudiced; not arbitrary, capricious, or biassed; much less, warped by resentment, or personal dislike.

The Apex court ultimately deduced the following principles:

(1) The modern trend points to judicial restraint in administrative action.

(2) The Court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The Court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fairplay in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.

No doubt, the above decision was rendered in the context of the Government contracts. Still the principle enunciated by the Government applies with all its force to all sphere of administrative actions like present one, in my view.

- 3.** Testing on the anvil of the above jurisprudence, it must be said that on the letter addressed by the Bar Council of A.P. at the instance of the Bar Council of India, the Secretary, Board of Intermediate Education, A.P. has pellucidly stated that the candidate passed in All India Trade Test for Craftsmen Training course from Department of Employment and Training, A.P., which is not a member of Council of Boards of School Education (COBSE) and thereby the enclosed certificate was not equivalent to general intermediate course offered by the Board of Intermediate Education, A.P. In that view, this Court neither sit on appeal as to the decision of the concerned expert Educational Committee nor predicate the equivalences of various courses to corresponding other courses which amounts to a bull in a China's shop or unwarranted intrusion into unknown domains. On this principle, we hold that the writ petitions do not merit consideration and

hence, liable to be dismissed.

**4.** In result, these Writ Petitions are dismissed. No costs.

Miscellaneous petitions pending, if any, in this case shall stand closed.

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**U. DURGA PRASAD RAO, J**

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**VENKATA JYOTHIRMAI PRATAPA, J**

Dt. 20.09.2023  
MVA--

**THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO  
&  
THE HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**Writ Petition Nos. 811, 9932 and 9984 of 2023**

**Dt. 20.09.2023**

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