

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 418 of 2016**

- Shubhang Sharma S/o Shri Sridhar Sharma, Aged About 22 Years R/o Qt. No. 4, Prashanti Marg, Near S B I New Shanti Nagar, Raipur. Civil & Revenue District Raipur (Chhattisgarh)

---- Petitioner**Versus**

1. Union Of India Through The Secretary, Ministry Of Law/Social Welfare, New Delhi.
2. State Of Chhattisgarh, Through The Secretary, Department Of Higher Education, Secretariat, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
3. Bar Council Of India Through Its Chairman/Secretary, 21 Rouse Avenue Institutional Area, New Delhi 110 002
4. State Bar Council Of Chhattisgarh, Through Its President, New High Court Premises, Bodri, Bilaspur - 495001 (Chhattisgarh)
5. Hidayatullah National Law University, Through Its Registrar Uparwara, Abhanpur, Raipur (Chhattisgarh)

---- Respondent

For Petitioner : Shri B.P. Sharma with Shri Hari Agrawal, Advocates.
 For Respondent No.1 : Shri NK Vyas, ASG.
 For Respondent No.2 : Shri Ramakant Mishra, Deputy AG
 For Respondent No.3 : Shri Shashank Upadhyay on behalf of Shri Vimlesh Bajpai, Advocate.
 For Respondent No.5 : Shri Shashank Thakur, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****27/07/2016**

1. The petitioner is a student of B.A.L.L.B. Honours in the Hidayatullah

National Law University, Raipur, respondent No.5. He suffers from learning disability (dyslexia). The object of preferring this writ petition is for seeking direction to the respondents to make arrangement for providing extra sufficient time for writing examination; in addition, the petitioner be permitted to write in margins i.e. Header and Footer and/or be exempted from appearing in those papers which are not taught in Law Colleges where the University grants degree of B.A.L.L.B. Course. Prayer is also made to grant 20 grace marks in view of the circular issued by the Government of India as also for issuance of direction to frame the rules with regard to the persons like the petitioner who is suffering from learning disability (dyslexia).

2. The petitioner successfully appeared in the Common Law Admission Test Examination (for short 'CLAT') held in the year 2010 and since then he is continuing his B.A.L.L.B. Course in respondent No.5 University. In the entire 5 years course, a student is required to clear 56 subjects in which the petitioner has already appeared, however, he has cleared 36 subjects/papers despite having difficulty in writing as he suffers from learning disability (dyslexia). The certificate issued by the National Institute of Mental Health & Neuro Sciences Bangalore dated 6.9.2004 has been filed as Annexure-P/1 which reads thus:-

“National Institute of Mental Health & Neuro Sciences Bangalore – 560 029 (Deemed University)

Post Bag No.2900

Date : 6.09.04

Ref: P-221577

The Principal/The Director, CBSE Board

This is to bring to your notice that patient Shubhang S. has been evaluated by me for poor school performance. He has been found to be a bright child with high intelligence. He has problems in the area of mathematics and spelling.

In view of his slowness especially in writing, we recommend him to take extra time during examination. The mother has been counseled regarding the nature of the problem and to arrange for special inputs in study skills and also for Maths.

National Institute of Mental Health
and Neuro Sciences, Hosur Road,
Bangalore 560 029

Ms. Natasha Devdutt
M. Phil II
CLIN PSY”

3. From perusal of the above certificate, it would appear that the petitioner is very slow in writing. He was thereafter examined by All India Institute of Speech and Hearing where also he was found to suffer from defect of slow writing. During examination, he was found to have very tight and close to nib grip of the pen for which he reports of excessive pain in the wrist (right) after writing around 15 words of a passage. Both the institutions have otherwise found the petitioner to be a bright child with high intelligence. There are other certificates annexed with the writ petition more or less having the same finding about his slowness in writing.
4. In the above view of the matter, Shri Sharma, learned counsel for the petitioner would submit that the Central Government has already issued guidelines on 26th February, 2013 for conducting examination of persons with disability, therefore, the respondent University should consider grant of extra time for writing examination and allow at-least 20 grace marks in each paper. He would submit that return filed by the University would disclose that the University being a National Law University and conduct of law course being regulated by the Bar Council of India (for short 'BCI'), the University cannot take any decision in respect of grant of grace marks unless the same is directed or approved by the BCI.

5. Shri Shashank Upadhyay learned counsel appearing on behalf of Shri Vimlesh Bajpai, Advocate prays for time to seek instructions in the matter. However, considering the urgency in the matter because the examination is likely to commence in the first week of August, 2016, this Court requested Shri Shailendra Dubey, Advocate and Member, BCI to assist the Court in the matter.
6. Perusal of the documents available on record would manifest that as back as on 21.9.2011, the University has written to the BCI requesting to frame the rules which govern Persons with Disability (PwD)/dyslexia on the basis of which their request for 20 grace marks in the examination can be considered. Such request was again made on 6.4.2016, however, the BCI has not responded to the letters.
7. In the matter of **Sonia Damley Vs. The Principal, S.S. High School & Junior College & Ors.** {WP No.5667/2013, decided on 11th July, 2013}, the Division Bench of the Bombay High Court has allowed 20 grace marks to a Class-12th student who also suffered from dyslexia.
8. However, present is a case where BALLB Course is conducted under the regulation framed by the BCI, a statutory body and any violation thereof by the University would entail action by the regulatory body, therefore, learned counsel for the University has rightly submitted that the University cannot allow grace marks on its own unless direction in this regard is issued by the BCI.
9. Considering the entire fact situation of the case, for the present, the Writ Petition is disposed of with a direction to the BCI to take decision in respect of allowing one hour extra time to the petitioner for writing examination and awarding 20 grace marks in view of the petitioner's disability.
10. Let learned counsel appearing for the BCI and Shri Shailendra Dubey, Member, BCI as well inform the BCI about this order and the

requirement of taking early decision in the matter. Let the decision be taken within a period of 4 weeks from today. In course of decision making process, the BCI would be at liberty to verify correctness of the medical certificates.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve