

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.17111, 16310, 9758, 6612, 6614,
15593, 18898, 18899 and 13021 of 2018
and
W.M.P.Nos.20379 and 19438 of 2018

K.A.ROBERT JAMES .. PETITIONER IN WP.NO.17111 OF 2018
S.SREEKANTAN NAIR ... PETITIONER IN WP.NO.16310 OF 2018
R.SENTHILKUMAR ... PETITIONER IN WP.NO.9758 OF 2018
K.PRABHAKAR ... PETITIONER IN WP.NO.6612 OF 2018
S.R.SAI PRIYA ... PETITIONER IN WP.NO.6614 OF 2018
MANIK A.JAIN ... PETITIONER IN WP.NO.15593 OF 2018
M.SUDHAKAR ... PETITIONER IN WP.NO.18898 OF 2018
P.SANTHIMANI ... PETITIONER IN WP.NO.18899 OF 2018
J.SRINIVASAN ... PETITIONER IN WP NO.13021 OF 2018

1. The Secretary to Govt. of Tamil Nadu,
Law Department, Chennai-600 009.
2. University Grant Commission,
South Campus, University of Delhi,
Benito Juarez Marg, New Delhi-110 002.
3. The Secretary, Bar Council of India,
No.21, Rouse Avenue, Institutional Area,
New Delhi-110 002.
4. The Registrar, Saveetha School of Law,
Saveetha University, 162, Poonamallee High Road,
Velappanchavadi, Chennai-600 077.

.. Respondents in W.P.No.17111 of 2018

5 THE SECRETARY TO GOVT. OF
TAMILNADU LAW DEPARTMENT CHENNAI-600 009.

6 UNIVERSITY GRANT COMMISSION
SOUTH CAMPUS UNIVERSITY OF DELHI BENITO
JUAREZ MARG NEW DELHI-110 002.

7 THE SECRETARY
BAR COUNCIL OF INDIA NO.21 ROUSE AVENUE
INSTITUTIONAL AREA NEW DELHI-110 002

8 THE REGISTRAR
SAVEETHA SCHOOL OF LAW SAVEETHA UNIVERSITY
162 POONAMALLEE HIGH ROAD VELAPPANCHAVADI
CHENNAI-600 077

... RESPONDENTS in WP No.16310 of 2018

9 UNIVERSITY GRANTS COMMISSION
SOUTH CAMPUS UNIVERSITY OF DELHI BENITO
JUAREZ MARG NEW DELHI-110 002

10 THE SECRETARY
BAR COUNCIL OF INDIA NO.21 ROUSE AVENUE
INSTITUTIONAL AREA NEW DELHI-110 002

11 THE REGISTRAR
SAVEETHA SCHOOL OF LAW SAVEETHA UNIVERSITY
162 POONAMALLEE HIGH ROAD VELAPPANCHAVADI
CHENNAI-77

... RESPONDENTS in WP No.9758 of 2018

12 UNIVERSITY GRANTS COMMISSION
SOUTH CAMPUS UNIVERSITY OF DELHI BENITO
JUAREZ MARG NEW DELHI-110 021.

13 THE REGISTRAR
SAVEETHA SCHOOL OF LAW NO.162 POONAMALLEE
HIGH ROAD VELAPPANCHAVADI CHENNAI-77

14 THE PRINCIPAL
SAVEETHA SCHOOL OF LAW NO.162 POONAMALLEE
HIGH ROAD VELAPPANCHAVADI CHENNAI-77

... RESPONDENTS in WP No.6612 of 2018

15 UNIVERSITY GRANTS COMMISSION
SOUTH CAMPUS UNIVERSITY OF DELHI BENITO
JUAREZ MARG NEW DELHI-110 021.

- 16 THE SECRETARY
BAR COUNCIL OF INDIA NO.21 ROUSE
INSTITUTIONAL AREA NEW DELHI-110 002.
- 17 THE REGISTRAR
SAVEETHA SCHOOL OF LAW NO.162 POONAMALLEE
HIGH ROAD VELAPPANCHAVADI CHENNAI-77
... RESPONDENTS in WP No.6614 of 2018
- 18 THE PRINCIPAL
SAVEETHA SCHOOL OF LAW SAVEETHA UNIVERSITY
162 POONAMALLE HIGH ROAD CHENNAI-600 077.
- 19 THE REGISTRAR
M/S.SAVEETHA UNIVERSITY 162 POONAMALLE
HIGH ROAD CHENNAI-600 077.
... RESPONDENTS in WP No.15593 of 2018
- 20 UNIVERSITY GRANTS COMMISSION
SOUTH CAMPUS UNIVERSITY OF DELHI BENITO
JUAREZ MARG NEW DELHI DELHI-110 021.
- 21 THE REGISTRAR
SAVEETHA SCHOOL OF LAW SAVEETHA UNIVERSITY
NO.162 POONAMALLEE HIGH ROAD
VELAPPANCHAVADI CHENNAI-600 077.
- 22 THE PRINCIPAL
SAVEETHA SCHOOL OF LAW SAVEETHA UNIVERSITY
NO.162 POONAMALLEE HIGH ROAD
VELAPPANCHAVADI CHENNAI-600 077.
... RESPONDENTS in WP No.18898 of 2018
- 23 UNIVERSITY GRANTS COMMISSION
SOUTH CAMPUS UNIVERSITY OF DELHI BENITO
JUAREZ MARG NEW DELHI DELHI-110 021.
- 24 THE REGISTRAR
SAVEETHA SCHOOL OF LAW SAVEETHA UNIVERSITY
NO.162 POONAMALLEE HIGH ROAD
VELAPPANCHAVADI CHENNAI-600 077.
- 25 THE PRINCIPAL
SAVEETHA SCHOOL OF LAW SAVEETHA UNIVERSITY
NO.162 POONAMALLEE HIGH ROAD
VELAPPANCHAVADI CHENNAI-600 077.
... RESPONDENTS in WP No.18899 of 2018

- 26 SAVEETHA UNIVERSITY
REP THE REGISTRAR NO.162 POONAMALLEE HIGH
ROAD PONNAMALLEE CHENNAI- 600 077.
- 27 SAVEETHA SCHOOL OF LAW
REP BY ITS PRINCIPAL SAVEETHA UNIVERSITY NO.
162 POONAMALLEE HIGH ROAD POONAMALLEE
CHENNAI-077.

... RESPONDENTS in WP No.13021 of 2018

Prayer in WP.NO.17111 of 2018:-

Writ Petition No.17111 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first, second and third respondents to take appropriate action against the fourth respondent for running the Law Course without getting No Objection Certificate from the first respondent of State Government and Recognition from second respondent, vide letter of second respondent, dated 11.04.2017 and 12.06.2018 and further proper approval from the third respondent.

Prayer WP.No.16310 of 2018:-

Directing the 1st, 2nd and 3rd respondent to take appropriate action against the 4th respondent for running the Law Course without getting No Objection Certificate from the 1st respondent of State Government and Recognition from 2nd respondent vide letter of the 2nd respondent dated 11.4.2017 and 12.6.2018 and further proper approval from 3rd respondent

Prayer WP.No.9758 of 2018:-

to direct the 3rd Respondent to submit the entire Transfer Certificate Conduct Certificate, Migration Certificate, No Objection Certificate, 10th Standard and +2 Mark Sheet (Original) Birth Certificate Community Certificates and Admission Fees and Hostel and Caution Deposit Fees totalling of Rs.3,17,500/- of Petitioners son S.V.Kalkivalavan before this Honourable Court, to join in other Colleges for which the 1st and 2nd Respondent also should give consent for the same to avoid future problems to join in other colleges on transfer basis immediately

Prayer WP No.6612 of 2018:-

Directing the 2nd respondent to refund the Tuition Fees and other charges collected from the petitioner along with damages

Prayer WP No.6614 of 2018:-

Directing the 2nd respondent to refund the Tuition Fees, Hostel Fee and other charges collected from the petitioner along with damages

Prayer WP No.15593 of 2018:-

Directions to the respondents to return the original documents viz., 10th Mark Sheet, 12th mark Sheet, Transfer Certificate, Conduct Certificate, Mark List, Migration Certificates and other necessary relevant documents as requested in the intimation dated 05.05.2018 and 08.06.2018 (Reg. No.131702025) submitted by the petitioner during the academic year 2017-18 without insisting upon fees for the rest of the academic years

Prayer WP No.18898 of 2018:-

Directing the 2nd respondent to refund the tuition fees and other charges collected from the petitioner along with damages

Prayer WP No.18899 of 2018:-

Directing the 2nd respondent to refund the tuition fees and other charges collected from the petitioner along with damages

Prayer WP No.13021 of 2018:-

Directing the respondents to issue Transfer certificate to the petitioners son S.U.Sravan, Roll/Register Number 131401008 in IV Year B.A.LLB(Hons) course along with bonafide certificate and mark sheets for Semester IV and V, and to return his sons SSLC Mark Sheet, Higher Secondary Course Mark Sheet and other certificates submitted during his admission, within a reasonable time to be fixed by this Hon ble court by considering the petitioners representation dated 27.05.2018 without insisting the payment of fees for the remaining period of the said course.

For Petitioners : Mr.R.Balasubramanian
in WP.Nos.17111,16310,9758 of 2018

Mr.A.Selvendran
in WP.Nos.6612,6614,18898,18899 of 2018

M/s.C.Rekha Kumari
in WP.No.15593 of 2018

Mr.R.Neelakandan
in WP.No.13021 of 2018

For Respondents : Mrs.V.Annalakshmi,
Govt. Advocate for R-1 in
W.P.No.17111 of 2018, 16310 of 2018

Mr.P.R.Gopinathan for R2
in WP.17111 of 2018, 16310 of 2018

R1 in WP.9758, 6612, 6614, 18898,
18899 of 2018

Mr.S.R.Raghunathan for
R3 in WP.17111 of 2018, 16310 of 2018,
R2 in WP.9758 of 2018.

Mr.S.Saravanan, for R4
in WP.17111 of 2018, 16310 of 2018,
R3 in WP.9758 of 2018, WP.6612 of 2018,
WP.6614 of 2018, WP.18898, 18899 of 2018,
R2 in WP.6612 of 2018, 6614, 15593, 18898,
18899 of 2018
R1 in WP.13021 of 2018, WP.15593 of 2018

COMMON ORDER

Writ Petition No.17111 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the first, second and third respondents to take appropriate action against the fourth respondent for running the Law Course without getting No Objection Certificate from the first respondent of State Government and Recognition from second respondent, vide letter of second respondent, dated 11.04.2017 and 12.06.2018 and further proper approval from the third respondent.

2. Writ Petition No.16310 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the first, second and third respondents to take appropriate action against the fourth respondent for running the Law Course without getting No Objection Certificate from State Government and Recognition from second respondent, vide letter of second respondent, dated 11.04.2017 and 12.06.2018 and further proper approval from the third respondent.

3. W.P.No.9758 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the third respondent to submit the entire Transfer Certificate, Conduct Certificate, Migration Certificate, No Objection Certificate, 10th Standard and +2 Mark Sheet (original), Birth Certificate, Community Certificate and Admission Fees and Hostel and Caution Deposit fees totalling

Rs.3,17,500/- of petitioner's son Mr.S.V.Kalkivalavan before this Court to join in other Colleges for which the first and second respondents also should give consent for the same to avoid future problems to join in other colleges on transfer basis immediately.

4. W.P.No.6612 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the second respondent to refund the tuition fees and other charges collected from the petitioner along with damages.

5. W.P.No.6614 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the second respondent to refund the tuition fees, hostel fee and other charges collected from the petitioner along with damages.

6. W.P.No.15593 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the respondents to return the original documents, viz., 10th Mark Sheet, 12th Mark Sheet, Transfer Certificate, Conduct Certificate, Mark List, Migration Certificate and other necessary relevant documents as requested in the intimation dated 05.05.2018 and 08.06.2018 (Reg.No.131702025) submitted by the petitioner during the academic year 2017-18, without insisting upon fees for the rest of the academic years.

7. W.P.No.18898 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the second respondent to refund the tuition fees and other charges collected from the petitioner along with damages.

8. W.P.No.18899 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the second respondent to refund the tuition fees and other charges collected from the petitioner along with damages.

9. W.P.No.13021 of 2018 is filed praying for issuance of a Writ of Mandamus to direct the respondents to issue Transfer Certificate to the petitioner's son S.U.Sravan, Roll/Register Number 131401008 in IV year B.A.LL.B (Hons) course along with bona-fide certificate and mark sheets for Semester IV and V; and to return the son's SSLC Mark Sheet, Higher Secondary Course Mark Sheet and other certificates submitted during his admission, within a reasonable time to be fixed by this Court by considering the petitioner's representation dated 27.05.2018 without insisting the payment of fees for the remaining period of the said course.

10. The case of the petitioners (students/parents) is that the students have joined Saveetha School of Law and the said

institution has no approval and that it has not been recognised by the Bar Council of India (for short, 'the BCI'). It is submitted that the institution has collected fees. As the course has no approval and not recognised by the BCI, the entire fees have got to be refunded. It is further stated that the subject matter relates to commencement and continuation of programme without the approval by the University Grants Commission (for short, 'the UGC').

11. It is further stated that earlier, there is a Writ Petition bearing W.P.(C).No.4606 of 2017 pending before the Delhi High Court, wherein by interim order dated 30.05.2017, the order dated 11.04.2017 passed by the UGC was stayed by observing as follows:

"CM.No.20112/207 (for stay):

8. Till the next date of hearing, the operation of the impugned letter dated April 11, 2017 shall remain stayed. As the petitioner has not issued advertisement(s) calling for applications for admission in the Law Course for next academic session i.e. 2017-18, it is made clear that the petitioner shall inform the public at large (including applicants/students) by incorporating a statement about the pendency of these proceedings in this Court, against the communication dated April 11, 2017. The advertisement put on the website shall also include a similar statement. If the advertisement has already been issued, necessary corrigendum shall be issued. The petitioner shall not claim any equity if the petition is finally dismissed."

Thus, the Saveetha University was directed to inform the public (including applicants/students) about the pendency of the proceedings before the Delhi High Court and the University was also required to put a similar statement in its website and issue necessary corrigendums to that effect. The said order dated 30.05.2017 of the Delhi High Court was modified by order dated 26.04.2018 to the extent that while the operation of the impugned letter, dated 11.04.2017 will remain stayed, the requirement of the petitioner therein (Saveetha University) to insert condition in its advertisement or website as directed, vide earlier order dated 30.05.2017, will stand waived.

12. It is the further case of the petitioners that some of them are in Fourth year of the course and that as there is no approval by the UGC and that the BCI has also not recognised the

course, they are entitled to refund of the fees and return of the original certificates. Learned counsel for the petitioners submitted that earlier, this Court has passed an order on 11.07.2018 in W.P.No.16310 of 2018, directing return of the certificates by retaining the fees, if the petitioner has already paid the entire course fees as demanded by the College and it was further observed that the return of fees, if any, will be subject to the result of the Writ Petition. It is the grievance of the petitioners that the respondent-Saveetha University is refusing to comply with the said interim order, dated 11.07.2018 and demanding the fees for the entire five year course, i.e. the students have to pay the fees for the period they have not even attended the course. Since action of the University is illegal, the petitioners in these batch of Writ Petitions seek for return of the Transfer Certificates and other certificates and also pray for refund of fees from the University/College.

13. It is further stated that some of the students have joined the First Year in the academic year 2017-2018 in the respondent/Saveetha University and they have been issued with the allotment order only in the month of July 2017 and that pursuant to the said interim order of the Delhi High Court, the students must have been informed either by advertisement or by communication about the pendency of the Writ Petition before the Delhi High Court, so that the students take the risk of joining the course. In this case, the petitioners have not been informed about the pendency of the Writ Petition before the Delhi High Court and that the action of the University is not only illegal, but also in complete violation of the interim order of the Delhi High Court, dated 30.05.2017. Once there is no information, the University will have to pay the entire fees to the students, as the admission itself is ab-initio illegal.

14. Learned counsel appearing for the respondent/Saveetha University contended that the course was commenced in the year 2017 and the UGC has no role to play in this matter and thereafter, the BCI members visited the campus and subsequently granted permission to commence the course. He further submitted that the University has got approval and recognition with retrospective effect by the BCI and that once there is approval/recognition by the BCI, the students have no right to demand refund of fees. It is further stated that the students who have joined in the academic year 2017-2018, are aware of the pendency of the Writ Petition before the Delhi High Court, which was hosted in the web-site and that, only based on the same, the students have decided to join the course. Learned counsel for the University also contended that the University has hosted in the website about the date of application of the students, etc., to show that they were aware of the details in the web-site,

even though newspaper advertisement is not available before this Court. It is further stated that if the students discontinue or withdraw during the middle of the course, they will have to pay the entire course fees. It is also stated that the students and parents have given an undertaking that the students will pay the entire course fees of five years, in case they withdraw from studying the course during the middle of the academic year. Unless the entire course fee is paid, the certificates demanded by the students cannot be returned. It is further contended that there is no disobedience of the said interim order of the Delhi High Court and the students have not paid the fees as required so as to get the certificates. It is further stated that the University is willing to return the certificates to the students, provided the students comply with the interim order of this Court, by paying the fees as demanded by the University.

15. It is further submitted by the learned counsel for the respondent-University that there was approval of the course by the BCI and the details are as follows:

Details of Approval of B.A., B.L. (Hons) and B.B.A.,
L.L.B. (Hons) by the Bar Council of India

Sl. No.	Course	Year of Approval	Approval Letter No. and Date
1	BA BL (Hons)	2008-2009 2009-2010	BCI/D/1230/2008 (LE) MTG, dated 16.09.2008
2	BA BL (Hons)	2010-2011 2011-2012	BCI/D/1018/2009 (LE) MTG, dated 02.07.2009
3	BA BL (Hons)	2012-2013 2013-2014 2014-2015	BCI/D/1235/2013 (LE) MTG, dated 11.07.2013
4	BBA LLB (Hons)	2012-2013 2013-2014	BCI/D/1958/2017 (LE) MTG, dated 13.12.2017
5	BA LLB (Hons) & BBA LLB (Hons)	2014-2015 2015-2016 2016-2017 2017-2018	E-Mail dated 20.12.2017 Received from Bar Council of India

16. It is also stated by the learned counsel for the respondent/University that the students/parents are trying to defame the Saveetha School of Law and also attempting to defame the University by making baseless allegations. It is further stated that the students who have completed the law course from this University, have enrolled as Advocates and the same had been recognised by the BCI.

17. Learned counsel appearing for the UGC contended that the

College will have to adhere to the UGC norms and that the University has been instructed not to admit any students in the law course, vide communication dated 11.04.2017 of the UGC, whereby the UGC asked the respondent-Saveetha University to discontinue the Faculty of Law, which is also the subject matter of W.P.(C).No.4606 of 2017 pending before the Delhi High Court and the interim order dated 30.05.2017 of the Delhi High Court was modified on 26.04.2018 and the said Writ Petition is pending before the Delhi High Court. It is submitted that the UGC is the ultimate authority and that without due approval from the UGC/BCI, the students have been admitted in the law course. It is further submitted that action of the respondent-University to get it ratified at a later point of time, and trying to dupe everyone much less the students and parents, cannot be acceded to and that UGC has got prerogative right to decide over the affairs of the Deemed Universities, even though BCI has ultimate say with regard to the course. With regard to the approval and also with regard to the practice and enrolment as an Advocate in terms of the BCI Rules/Regulations, it is submitted that whether the UGC has a say in the matter or the BCI has a say in the matter, needs to be decided in the Writ Petition that is pending before the Delhi High Court. The issue in the present Writ Petitions is with regard to the refund of fees and return of certificates, and that, as mentioned supra, the other issues need not be gone into by this Court, as they would render the issues pending before the Delhi High Court, infructuous. It is further stated by the learned counsel for the UGC that the guidelines with regard to refund of fees, have been given and based on those guidelines, refund of fees has got to be made and that the entire course fee for five years, cannot be demanded by the respondent-University while the students seek for return of certificates.

18. Learned counsel appearing for the BCI submitted that the course has got to be approved and that it has to be recognised by the BCI. It is further submitted that the Standing Committee of the BCI considered the inspection report pertaining to the respondent/Saveetha University and pointed out that the admissions made by the University for the years 2012-2013 and 2013-2014 for the five year BBA LLB (Hons) course were done without approval of the BCI. It is also submitted that provisional approval for BA LLB (Hons) course has been granted till the academic year 2017-2018 and that the School of Law, Saveetha University, Chennai, has applied for further extension of approval of affiliation for five year BA LLB (Hons) and five year BBA-LLB (Hons) courses from the academic year 2018-2019 with requisite inspection fee in the month of December 2017 and the inspection is pending.

19. It is further stated by the learned counsel for the BCI that the Advocates Act, deals with the powers of the BCI with respect to the legal education. He relied on Sections 7(1)(h), 7(1)(i) and 49(d) of the Advocates Act, which reads as follows:

"Section 7: Functions of Bar Council of India: (1) The functions of the Bar Council of India shall be--

...

(h): to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils.

(i) to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf.

Section 49: General power of the Bar Council of India to make rules.-(1) The Bar Council of India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe --

...

(d) the standards of legal education to be observed by universities in India and the inspection of universities for that purpose."

20. Learned counsel for the BCI further submitted that in view of the above extracted Sections 7(1)(h), 7(1)(i) and 49(1)(d), the BCI has distinct powers with respect to the matters concerning the legal education, as it is the apex professional regulatory body. He further drew the attention of this Court that when disciplinary issue in BCI came up, the Advocates Act had been enacted by the Parliament in exercise of powers under Entries 77 and 78 List-I, VII Schedule of the Constitution of India and the Supreme Court has considered the disciplinary issue in the decision reported in AIR 1968 SC 888 (O.N.Mohindroo Vs. Bar Council of Delhi and others), wherein it has been held as follows:

"9. ... As aforesaid, the Act creates one common Bar, all its members being of one class, namely advocates. Since all those who have been enrolled have a right to practise in the Supreme Court and the High Courts, the Act is a piece of

legislation which deals with persons entitled to practise before the Supreme Court and the High Courts. Therefore the Act must be held to fall within Entries 77 and 78 of List I."

21. Learned counsel for the BCI also drew the attention of this Court to the decision of the Supreme Court reported in 2007 (2) SCC 202 (Bar Council of India Vs. Board of Management, Dayanand College of Law), wherein the Supreme Court had considered its earlier judgment (Constitution Bench), reported in AIR 1968 SC 888 (cited supra). Though the issue before the Supreme Court (in 2007 (2) SCC 202 - cited supra) was with regard to the appointment of Principal of a Law College, the Apex Court has held that the BCI has the supreme power with regard to the approval/recognition. Relevant paragraphs are extracted below:

"7. The Bar Council of India is constituted under Section 4 of the Advocates Act. It consists of the Attorney General of India, the Solicitor General of India, both in their ex officio capacities and one member elected by each State Bar Council from amongst its members. It is a body corporate. The functions assigned to it are enumerated in Section 7 of the Act. The functions relevant for our purpose are contained in Section 7(1)(h) and Section 7(1)(i). They read:

"7(1)(h): to promote legal education and to lay down standards of such education in consultation with the universities in India imparting such education and the State Bar Councils;

(i): to recognise universities whose degree in law shall be a qualification for enrolments as an advocate and for that purpose to visit and inspect universities or cause the State Bar Councils to visit and inspect universities in accordance with such directions as it may give in this behalf."

"11. Rule 17(1) stipulates that no

college after the coming into force of the Rules shall impart instruction in a course of study in law for enrolment as an advocate unless its affiliation has been approved by the Bar Council of India. Thus, though the Bar Council of India may not have been entrusted with direct control of legal education in the sense in which the same is entrusted to a university, still, the Bar Council of India retains adequate power to control the course of studies in law, the power of inspection, the power of recognition of degrees and the power to deny enrolment to law degree-holders, unless the university from which they pass out is recognised by the Bar Council of India."

"14. It is clear that from the decision of the Constitution Bench in *O.N.Mohindroo Vs. Bar Council of Delhi* (1968 (2) SCR 709 : AIR 1968 SC 888) that in pith and substance, the Advocates Act falls under Entries 77 and 78 of List I of the Seventh Schedule. That apart, it is not necessary to postulate a conflict of legislation in this case as we have indicated earlier. It is true that under the University Act, the selection of a Principal of a College affiliated to the university concerned has been left to the Higher Education Services Commission and Respondent 5 was included in the panel of selected candidates pursuant to a due selection by that Commission. It is also true that theoretically the State Government on the recommendation of the Director of Higher Education could appoint any one from that list as Principal of any college including a law college. But when concerned with the appointment of a Principal of the law college, there cannot be any difficulty either for the recommending authority or for the State Government in recognising the fact that a person duly qualified in law is required to be the Principal of that law college in the interests of the students coming out of that college in the light of the Advocates Act, 1961 and the Rules framed by the Bar Council of India governing enrolment of advocates and their practice. It must be the endeavour of the State and the

recommending authority to ensure that the students coming out of the college are not put to any difficulty and to ensure that their career as professionals is in no way jeopardised by the action of the Government in appointing a Principal of a law college. Therefore, even while adhering to its process of selection of a Principal, it behoves the State to ensure that the appointment it makes is also consistent with the Advocates Act and the Rules framed by the Bar Council of India. It may not be correct to say that the Bar Council of India is totally unconcerned with the legal education, though primarily legal education may also be within the province of the universities. But, as the apex professional body, the Bar Council of India is concerned with the standards of the legal profession and the equipment of those who seek entry into that profession. The Bar Council of India is also thus concerned with the legal education in the country. Therefore, instead of taking a pedantic view of the situation, the State Government and the recommending authority are expected to ensure that the requirement set down by the Bar Council of India is also complied with. We are of the view that the High Court was not correct in its approach in postulating a conflict between the two laws and in resolving it based on Article 254(2) of the Constitution. Of course, the question whether the assent to the Act would also extend to the statute framed under it and that too to an amendment made subsequent to the assent are questions that do not call for an answer in this case in the light of the view we have adopted."

"15. According to us, therefore, notwithstanding the procedure to be followed under the University Act and Statute 11.14 as amended, it is necessary for the recommending authority and the State Government when concerned with the appointment of a Principal of a law college, also to adhere to the requirements of the Advocates Act and the Rules of the Bar Council of India. This would ensure a harmonious working of the universities and the Bar Council of India in

respect of legal education and the avoidance of any problems for the students coming out of the institution wanting to pursue the legal profession. We, therefore, hold that the State Government and the recommending authority were not justified in recommending and appointing Respondent 5 as the Principal of the Dayanand Law College."

22. Learned counsel for the BCI further contended that even though the issue regarding refund of fee was raised by the learned counsel for the petitioners in these Writ Petitions, this Court need not render any finding with regard to the other issues, as it would amount to deciding the issue that is sub-judice before the Delhi High Court and the contention of the UGC counsel and his arguments, if taken into account, it would appear as if they are defending the Saveetha University. As the issue in the case on hand is with regard to the refund of fees/return of certificates, that alone may be decided by this Court, leaving the other issues to be agitated in the Writ Petition that is pending before the Delhi High Court.

23. Heard the learned counsel appearing for the parties and perused the materials available on record.

24. It is not in dispute that some of the students who joined in the respondent/Saveetha University, are in IV year and some are in I Year. The issue as to whether there has been retrospective recognition and whether retrospective effect could be given or not, cannot be gone into in these Writ Petitions. As the issue in the present batch of Writ Petitions is with regard to the refund of fees and return of certificates, I am of the view that the students who have joined the course after the order of the Delhi High Court, dated 30.05.2017 stated supra, would be entitled to full refund of fees, as there is no evidence before this Court to show as to when the order of the Delhi High Court, dated 30.05.2017 was uploaded in the web-portal. That apart, in terms of the said interim order of the Delhi Court, dated 30.05.2017, the students should have been informed about the pendency of the Writ Petition before the Delhi High Court. The communication of the respondent/Saveetha University, dated 24.07.2017, informing one of the candidates about the allotment of seat, is extracted below:

"This is to certify that Ms.SAI PRIYA S.R. has been provisionally selected for B.B.A. LLB (Hons) course at Saveetha School of Law for the academic year 2017-18. The duration of the course is five years."

25. After the interim order of the Delhi High Court, dated 30.05.2017, stated supra, the above said candidate had been given seat on 24.07.2017 and the direction of the Delhi High Court has not been complied with by the respondent-Saveetha University, and the same does not find place in the allotment order issued to that student. Even though the said order dated 30.05.2017 has been subsequently modified by the Delhi High Court on 26.04.2018, on the date of admission of that student on 24.07.2017 extracted supra, the interim order dated 30.05.2017 of the Delhi High Court, has been in force. Strictly speaking, it would amount to Contempt of Court, which fact has got to be agitated only before the Delhi High Court where the matter is pending.

26. Hence, the students who have been admitted in violation of the interim order of the Delhi High Court, even though the course had been recognised by the BCI and that the other issues are pending, the students and parents ought to have been informed and for non-compliance of the order, the Saveetha University cannot take shelter that the BCI has approved and that the students are not entitled to refund of fees. Leaving it open to the students or the parents to bring the issue to the notice of the Delhi High Court, as any person can bring it to the notice of the Delhi High Court for violation of the order and the students who have joined after the interim order, in the academic year 2017-2018, shall be handed over the original certificates and also the entire course fees has got to be refunded. The counter affidavit filed by the respondent-Saveetha University is silent on that aspect.

27. Though this is a fit case for imposing heavy costs on the respondent- Saveetha University, payable to the students who have joined after the interim order of the Delhi High Court, dated 30.05.2017, this Court refrains from doing it for the present, and if any issue is taken by the students or parents before the appropriate Court, it is for that Court to consider the plea of the students/parents.

28. Since some of the students who have already joined and continued the course, who are in IV year and who have joined prior to the interim order of the Delhi High Court, dated 30.05.2017, would be entitled to refund of the proportionate fees as per the norms/guidelines fixed by the UGC and if any excess amount is lying with the respondent-Saveetha University, that will have to be refunded. It is represented by the learned counsel appearing for the respondent-Saveetha University that they used to collect the fees every academic year and they have not collected the entire fees for five academic years. Even though the communications of the respondent-Saveetha University speaks otherwise, that is to say that whenever the students want

to leave the course, they have to pay the entire course fees, i.e. five years, taking note of the submission of the learned counsel appearing for the respondent-Saveetha University, if the entire course fee of five years had not been received, and that if fees have been collected only for the respective academic years, the certificates alone need to be returned and that the University cannot demand the fees for the academic year in which the students have not continued to study and that the guidelines of the UGC alone have got to be followed with regard to the refund of the fees. If any amount(s) are paid by the students under various heads and collected by the University, i.e. with regard to the students who have joined after the abovesaid interim order of the Delhi High Court, dated 30.05.2017, then that has got to be refunded, i.e. hostel fee, bus charges, etc. All the original certificates of the students collected by the University shall be returned to the students. As far as the First Year students are concerned, the entire fees have to be refunded to them. If the entire fees with regard to the First Year students are not refunded to them, then it will fetch interest at the rate of 12% from the date of payment made to the College/University till the actual amount is disbursed to the First Year students. With regard to the Migration certificate, it is needless to mention that the students, if entitled to Migration Certificate, shall also be issued with Migration Certificate. With regard to the No Objection Certificate (NOC), the same yardstick shall be followed and NOC shall be issued. If such practice of issuance of Migration Certificate/NOC is not earlier followed by the Saveetha University, then the students, as a matter of right, cannot demand the same.

29. With the above observations/directions, the Writ Petitions are disposed of. No costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cs
To

1. THE SECRETARY TO GOVT. OF TAMIL NADU,
LAW DEPARTMENT, CHENNAI-600 009.
2. UNIVERSITY GRANT COMMISSION,
SOUTH CAMPUS, UNIVERSITY OF DELHI,
BENITO JUAREZ MARG, NEW DELHI-110 002.

3. THE SECRETARY, BAR COUNCIL OF INDIA,
NO.21, ROUSE AVENUE, INSTITUTIONAL AREA,
NEW DELHI-110 002.
4. THE REGISTRAR, SAVEETHA SCHOOL OF LAW,
SAVEETHA UNIVERSITY, 162, POONAMALLEE HIGH ROAD,
VELAPPANCHAVADI, CHENNAI-600 077.
5. THE PRINCIPAL
SAVEETHA SCHOOL OF LAW NO.162 POONAMALLEE
HIGH ROAD VELAPPANCHAVADI CHENNAI-77

+3cc to Mr.R.Balasubramanian, Advocate, S.R.Nos.52298, 52300, 52299

+1cc to Mr.S.R.Raghunathan, Advocate, S.R.No.52598

+9cc to Mr.S.Saravanan,, Advocate, S.R.Nos.52310 to 52313, 52315,
52306 to 52309,

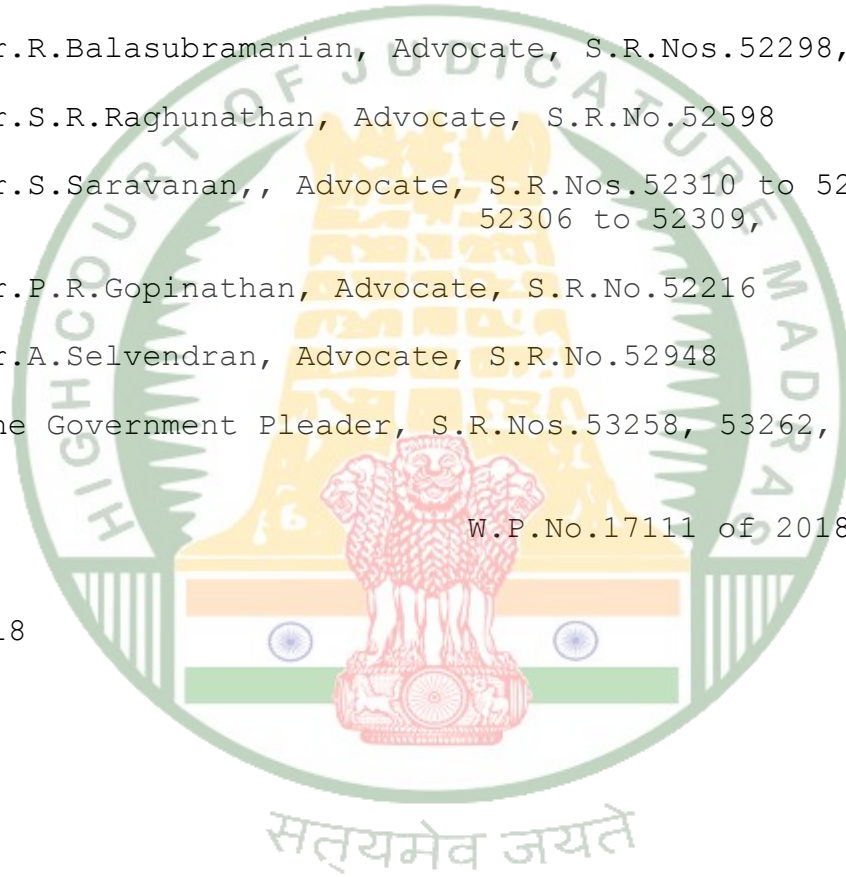
+1cc to Mr.P.R.Gopinathan, Advocate, S.R.No.52216

+5cc to Mr.A.Selvendran, Advocate, S.R.No.52948

+1cc to the Government Pleader, S.R.Nos.53258, 53262, 53264

W.P.No.17111 of 2018 etc. batch

KAN (Co)
CS/24/08/18



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