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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11378 OF 2016**

Shivam Sanjeeva Andhale ..Petitioner
Vs.
The Principal, ILS Law College & ors. ..Respondents

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Shrishailya Sadashiv Deshmukh a/w. Sainand Chaugule &
Pravin Gole for petitioner.
Shailendra S.Kanetkar a/w.Tejas Hartalkar for respondent No.1.
Amitkumar Damodar Sale for respondent No.4.
Mrs. S.D. Vyas, 'B' Panel Counsel for State.

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**CORAM : S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.**

RESERVED ON : 8th MARCH, 2019

PRONOUNCED ON : 27th JUNE, 2019

JUDGMENT (PER M.S.KARNIK, J.) :-

Rule. Rule is made returnable forthwith by consent
of the parties and heard finally.

2. By this Petition filed under Articles 226 and 227 of
the Constitution of India, the petitioner is challenging the
communication dated 19th September, 2016 informing him that
his admission was cancelled by respondent No.1 on the ground
that he has failed to secure a passing certificate for XIth grade
examination.

3. The facts of the case in brief are as under :

The petitioner passed S.S.C. examination in the year 2013 and secured a First Class in the said examination. He took admission in the F.Y.J.C. at the Nowrosjee Wadia College, Pune, in Science Stream. He failed to clear XI standard examination and therefore took recourse to the option provided by the Pune Divisional Board to fill up Form No.17. This option was to enable the students who failed their XI grade examination to appear for their XII grade examination without wasting their academic year. The petitioner appeared for H.S.C. and cleared the said examination in October, 2015. He filled the application form for admission to First Year of Under Graduate Course in LLB (5 years) for the academic year 2016-2017.

4. By a letter dated 14/9/2016, the petitioner was informed that he was granted provisional admission for the academic year 2016-2017 in Indian Law Society's - ILS Law College, Pune i.e. respondent No.1 herein.

5. The petitioner was however informed that his admission is cancelled as he has failed to secure passing certificate for XI grade examination. The petitioner pointed out that for appearing for the State Common Entrance Test there was no requirement to obtain passing certificate of XI grade. The petitioner further informed that he had filled Form No.17 which was a specific provision introduced by the State Board to save the educational career of students who failed XI grade examination and thereby requested respondent No.1 to accept the admission of the petitioner. Vide a remark below the representation which is at Exhibit 'H', page 19 of the paper-book, the representation was rejected saying that as per rules applicable the application cannot be granted.

6. Learned Counsel for petitioner would rely upon the decision of the Full Bench of the High Court of Madras in the case of **G.S. Jagadeesh vs. The Chairman in Writ Petition No. 32984 of 2016**. Learned Counsel for petitioner would contend that having failed to clear XI grade examination, the petitioner took recourse to option provided by Pune Divisional Board to fill

up Form No.17 which allows students to appear for their XII grade examination without wasting their academic year. The petitioner having appeared for H.S.C. examination and cleared the same was eligible to take Common Entrance Test that requires the petitioner to obtain a passing certificate for XI grade examination. The petitioner passed H.S.C. examination in October, 2015.

7. The objection of the respondent No.4 – Bar Council of India is that as the petitioner has not passed XI grade examination, is not eligible to take admission to five year degree law course. According to learned Counsel for respondent No.4 – Bar Council of India, this in view of the explanation to Rule 5 of the Rules of Legal Education, 2008 made by the Bar Council of India in consultation with Universities and State Bar Councils in exercise of the powers under the Advocates Act, 1961.

8. Having heard learned Counsel for the parties, we are of the opinion that the issue involved in the present Petition is

now no more *res-integra* in view of the decision of the Full Bench of the Madras High Court in **G.S. Jagadeesh vs. The Chairman in Writ Petition No. 32984 of 2016**. No doubt, the same cannot be regarded as binding on this Court and that it can have only a persuasive value. Learned Counsel for respondent No.4, on instructions, specifically took a stand that this decision has been accepted and acted upon by respondent No.4. The answer to the issue involved in this Petition need not detain us. The issue has been considered elaborately in **G.S. Jagadeesh's case** with which we are in respectful agreement. The Full Bench of the Madras High Court in paragraph 43 held thus :

43. 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, 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.

9. The petitioner having admittedly passed H.S.C. after he was allowed to take recourse to option provided by Pune Divisional Board. The petitioner filled Form No.17 which allows the students to appear for their XII grade examination without wasting their academic year. The insistence of Bar Council of India that the petitioner is still required to clear XI grade examination though he has passed XII grade examination would virtually defeat the very object of enabling the students to appear for their XII grade examination without wasting their academic year. The petitioner has passed XII grade examination from a recognized Board viz. Maharashtra State Board of Secondary and Higher Secondary Education, Pune. If the Maharashtra State Board which is a statutory board has specifically made a provision enabling the students to take XII grade examination despite failing in the XIth grade examination so as not to waste the academic year, then the petitioner has to be regarded as having successfully completed Senior Secondary School course from a Senior Secondary Board constituted or recognized by the State Government for the purpose of issuance

of qualifying certificate for admission to an Integrated Degree Programme (five year law course).

10. As the issue is squarely covered by the decision in the case of **G.S. Jagadeesh** which decision has admittedly been accepted and acted upon by respondent No.4 – Bar Council of India, even the present Petition deserves to be allowed in the same terms.

11. The Writ Petition is, thus, allowed.

12. The petitioner shall be considered for an ensuing session of Integrated Degree Programme of the five year law course, subject to compliance with all requisite formalities for obtaining admission.

13. Rule is made absolute with no order as to costs.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)