

**\* THE HON'BLE SRI JUSTICE T. VINOD KUMAR**

**+ WRIT PETITION No.23603 of 2019**

% Dated 22.01.2020

# M. Naveen Kumar

.... Petitioner

And

\$ The State of Telangana rep. by its Secretary,  
Higher Education Department, Secretariat, Hyderabad and  
others.

... Respondents

! Counsel for the petitioner: Sri D. Ramakrishna

^ Counsel for respondents: Sri Ch. Jagannadha Rao,  
Learned Standing Counsel for respondent Nos.2  
and 5;

Smt. S. Nanda, learned counsel for respondent No.4,  
Smt. Sarada, learned Standing counsel for respondent No.3  
and Sri G.M. Moinuddin, learned counsel for respondent  
No.7.

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> HEAD NOTE:

? Citations:

- 1) 1998 (1) ALD 212 = 1998 (1) ALT 309
- 2) 2012 (5) CTC 129 – Mad HC.
- 3) Order in W.P. No.32984 of 2016 dated 13.03.2018
- 4) Order in W.P. No.872 of 2011 dated 31.12.2012

**THE HONOURABLE SRI JUSTICE T. VINOD KUMAR**

**WRIT PETITION NO.23603 OF 2019**

**ORDER:**

This Writ Petition is filed under Article 226 of the Constitution of India for issuing a writ of mandamus to declare the action of the 2<sup>nd</sup> respondent in not approving / ratifying the admission of the petitioner into three year LLB Course under convenor quota and allowing the petitioner to pursue the LLB course, though the petitioner having qualified in the LAW Common Entrance Test (LAWCET), 2019, as being illegal, arbitrary, unjust, unreasonable and contrary to the principles of natural justice and Article 14 of the Constitution of India with a consequential direction to the 2<sup>nd</sup> respondent to allot seat to the petitioner in any of the colleges under Convenor quota to pursue the three year LLB course by declaring the condition "*candidates who have passed decree examination by single sitting are not eligible*" as illegal, unjust.

2. The case of the petitioner is that the petitioner has appeared for the LAWCET 2019 Entrance examination conducted by the 2<sup>nd</sup> respondent in the academic year 2019-20 and has secured rank of 3101 thereat. Based on the said rank secured, the petitioner claims to have sought for admission under the Convenor quota in the spot admission held at Dr. B.R. Ambedkar Law College, Hyderabad. However, as the 2<sup>nd</sup> respondent being the Convenor of the

Telangana State LAW CET 2019 not approving/ratifying the admission of the petitioner under convenor quota in to Dr. B.R. Ambedkar Law College, the petitioner is unable to pursue the three year law course.

3. Counter-affidavits had on behalf of respondent Nos.2 & 5 and respondent no.4 have been filed in the matter.

4. Heard D. Ramakrishna, learned counsel for the petitioner and Sri Ch. Jagannadha Rao, learned Standing Counsel for respondent Nos.2 and 5, Smt. S. Nanda, learned counsel for respondent No.4, Smt. Sarada, learned standing counsel for respondent No.3 and Sri G.M. Moinuddin, learned counsel for respondent No.7.

5. Brief facts of the case are that the petitioner claims to have applied for TS Law Common Entrance Test, 2019 seeking admission into three year law course (LLB) during the academic year 2019-20. It is claimed that though the petitioner secured rank of 3101, in the said entrance examination conducted and sought admission into Dr. B.R. Ambedkar Law College, Hyderabad under the Convenor quota, the same was not approved / ratified by the 2<sup>nd</sup> respondent. The reason for refusal by the 2<sup>nd</sup> respondent in not allotting the petitioner a seat for pursuing three year LLB course, is on the ground that the petitioner does not fulfil the condition for seeking admission into the said course, as the

petitioner obtained qualifying degree examination through external examination without undergoing three year regular course. The said restriction imposed by the 2<sup>nd</sup> respondent, is under challenge in the present proceeding.

6. The learned counsel for the petitioner while challenging the reasonableness of the said restriction imposed, submits that the LAW CET notification issued by the 2<sup>nd</sup> respondent did not contain the said restriction. It is only after the conduct of entrance examination, the said restriction relating to the candidates requiring to have three year regular course in the qualifying degree examination was introduced only at the time of making applications for allotment of seats after having qualified at the entrance examination. Thus, it is submitted by the learned counsel for the petitioner, that any condition / restriction imposed subsequent to the conduct of entrance examination cannot be made applicable, since the petitioner took the examination on the basis of the conditions made known while issuing the LAW CET 2019 notification.

7. It is the case of the petitioner that the petitioner has passed his 10<sup>th</sup> class during the year 1983 through regular school study and thereafter passed Intermediate in the year 1986. However, thereafter the petitioner could not pursue higher studies on account of financial constraints and was eking out a living by doing private job to meet the financial needs of his family being the elder son. However, it is claimed

that the financial constraints forcing the petitioner to undertake private job did not deter the petitioner in pursuing with higher studies and the petitioner had sought admission into B.A., External course offered by the Osmania University in the year 1988 with optional subjects - Maths, Applied Maths and Economics. Since, the period of gap between Intermediate examination and the admission into B.A. external course by the petitioner in the year 1988 being less than three years, the petitioner was permitted to write only part I of the B.A. external examination which dealt with languages. It is claimed that the petitioner passed in the part I examination in October/November, 1988. In so far as part II of B.A. external examination, though the petitioner was given permission in March, 1989, the petitioner could not complete the same and he only qualified in the subject of economics. Having realised that the petitioner is not in a position to clear the papers of Maths and Applied Maths, being in employment, the petitioner claims to have changed optional subjects to political science and public administration and claims to have passed the examination in April, 1999. Upon completion of the said examination, the Osmania University issued degree certificate to the petitioner having obtained B.A. through external examination in the year 1999.

8. The petitioner after securing the graduation through B.A. external in 1999 has now decided to pursue LLB course and accordingly took the entrance examination conducted by the 2<sup>nd</sup> respondent. Though, it is claimed that the petitioner qualified and secured rank of 3101 and applied for a seat under the Convenor quota, the 2<sup>nd</sup> respondent rejected the application and did not allot the seat under convenor quota solely on the ground that the petitioner did not meet the eligibility criteria of admission for the three year LLB course. The condition relating to eligibility of a candidate to seek admission into three year LLB course reads as under:

*“the candidates who have passed degree examination by single sitting without undergoing three year course either through regular or private or correspondence and those who obtained degree through Open University directly without having any basic qualification are not eligible.”*

9. On the basis of the above condition, it is claimed that the 2<sup>nd</sup> respondent has denied the admission of the petitioner into the three year LLB course. The learned counsel for the petitioner by drawing attention of this court to the certificate issued by the authorities of the Osmania University titled “ To whomsoever it may concern” vide certificate No.60/UG/Ext/records/19 dated 15.10.2019, wherein it is stated that the B.A. external examination conducted by the Osmania University are equivalent to B.A. (10+2+3) pattern of

year wise scheme of three year degree course (regular of this university), submits that the petitioner meets the eligibility criteria, since, B.A.(External) graduation is considered as equivalent to three year regular course. The said certificate, also states that the B.A. external examinations are recognised by the association of Indian Universities for the purpose of admission into higher course of study in all statutory Universities of India. Basing on the above certificate, the learned counsel for the petitioner submits that the petitioner is eligible for seeking admission into the 3 year programme of LLB.

10. It is claimed by the petitioner that since the University authorities having issued the said certificate whereby it is stated that the B.A. external examination obtained by the petitioner, though it is termed as a single sitting is equivalent to regular degree of three years, the petitioner would be eligible to seek admission into the LLB course and the restriction imposed by the University on the ground that the candidates who have passed degree examination by single sitting without undertaking three year course are not eligible is in clear violation of Article 14 of the Constitution of India and being discriminatory.

11. On the other hand, the learned Standing counsel for the 2<sup>nd</sup> respondent submits that in so far as the admission into three year/five year law course is concerned, the same is

governed by the rules of legal education as framed by the Bar Council of India in the year 2008, as amended in the year 2017, wherein, it has been specified that in order to secure admission into Law course, one needs to have a qualifying degree examination through **regular course of three years** (emphasis supplied) as otherwise the candidate would be ineligible for seeking admission. It is stated by the learned counsel, that having regard to the said Legal Education Rules framed by the Bar Council of India, frequently asked questions relating to the eligibility have been framed and placed on the official website of T.S. LAW CET, 2019, wherein, it had been categorically mentioned that the candidates have to satisfy themselves as to the meeting the eligible criteria as prescribed by the Bar Council of India before making the application.

12. Learned Standing Counsel for 2<sup>nd</sup> respondent also submits that on account of the Bar Council of India framing Rules of Legal Education, the Government has issued G.O.Ms. No.31 dated 18.03.2009 amending Rule 3 of A.P. LAW CET Rules, 2004 wherein proviso was added to clause (a) of sub-rule (iii) of Rule 3 of the said Rules which reads as under:

*“Provided that the candidates who have passed degree examination by single sitting without undertaking three year course either through regular or private correspondence and*

*those who obtained degree through open University system directly without having any basic qualification are not eligible to appear for LAW CET and LAW CET- AC”.*

13. Placing reliance on the above proviso, the learned Counsel for the 2<sup>nd</sup> respondent submits that, the claim of the petitioner that the condition relating to the candidates who have passed degree examination by single sitting as not being eligible, having been introduced subsequent to the LAW CET notification is not correct and the said condition was in vogue since the year 2009. Further, the learned standing counsel submits that in the eligibility for TS LAW CET, 2019, it has been specifically stated that the eligibility criteria is subject to change as per the Government orders issued from time to time and since the Government by the above said G.O.Ms. No.31 dated 18.03.2009 having specified that the candidate who passed degree examination in single sitting being ineligible, the claim of the petitioner to the contra is without basis and factually incorrect.

14. Learned Standing Counsel also submits that in so far as B.A. external examination of Osmania University is concerned, the same was discontinued about twenty years back, based on the recommendations of the University Grants Commission during the year 1996-97. The petitioner having registered himself with the 5<sup>th</sup> respondent for B.A. external examination in the year 1988, could not complete the course

within the time permitted for completion of the course. Though, the petitioner could not complete the course in time, by virtue of the concession provided by the 5<sup>th</sup> respondent university, as per the UGC directions, to allow all the candidates who enrolled themselves under external programmes till the year 1995-96, to complete the course upto June, 1999, the petitioner was allowed to sit for the B.A. examination, whereat the petitioner completed and obtained B.A. certificate only in the year 1999. Thus, the petitioner cannot be considered as meeting the eligibility criteria prescribed for securing admission into LLB course of having obtained graduation through regular three year course.

15. On behalf of the 4<sup>th</sup> respondent, it is submitted that in so far as the petitioner seeking admission into the Law course is concerned, the same is governed by the Rules of Legal Education as framed by the Bar Council of India. Since, it is the Bar Council of India that has been bestowed with the responsibility to maintain standards relating to admissions into LLB course, it is stated that the Bar Council of India through its Rules relating to legal education and to maintain standards had issued guidelines in the year 2008 as amended in the year 2017, whereby it has been categorically stated that in order to secure and admission into LLB course one needs to have undergone the qualifying degree examination in

a regular method. As the petitioner having obtained the qualifying degree examination by possessing B.A. (external), which is not a regular three year course, for the reason that there are no classes conducted where the student would be required to attend classes on a regular basis, the same cannot be considered as equivalent to a regular three year course, for grant of admission. In so far as, the certificate issued by the Osmania University is concerned, it is stated that on the strength of the said certificate, the petitioner can pursue higher studies offered by the University, but in so far as the legal education by seeking admission into LLB is concerned, the University and the college is required to follow the guidelines framed by the Bar Council of India, as applicable during the current period, when a candidate is seeking admission.

16. In support of the above submissions, learned counsel appearing for the 4<sup>th</sup> respondent placed reliance on the following decisions:

- i) *Vinothan Krishnan Raman Vs. University of Mumbai – 2012 SCC Online Bom 1080 ;*
- ii) *Kalyani Mathivanan Vs. K.V. Jeyaraj & Other – (2015) 6 SCC -363 ;*
- iii) *K. Sakthi Rani Vs. The Secretary of the Bar Council of T.N & others – 2012-2-LW-746 (Mad) ;*
- iv) *R. Thirunavukkarasan Vs. State of T.N. – 2012 (5) CTC- 129 (Mad) ;*

- v) Annamalai University Vs. Secretary to Govt. – (2009) 4 SCC 590 ;*
- vi) G.S. Jagadeesh Vs. Chairman, 3 Year LLB Admission – W.P. No. 32984 of 2016, dtd. 13.03.2018 (Mad.) (F.B.).*

17. In the background of the above submissions, it is to be seen as to whether the petitioner can be said to be meeting the eligibility criteria prescribed for seeking admission into the 3 year LLB course for which the 2<sup>nd</sup> respondent conducted common entrance test.

18. The condition by which the petitioner was denied admission into LLB course deals with two exclusions - (i) candidates who have passed degree examination by single sitting without undergoing three year course either through regular or private or correspondence; (ii) candidates who obtained degree through Open University directly without having any basic qualification. The petitioner's case would be covered the first part of the exclusion, since the petitioner obtained the qualifying degree examination without undergoing three year course either through a regular or private or correspondence. Though the petitioner had taken ten years to qualify the B.A. external degree examination, the same cannot be considered as by undergoing three year regular course considering the fact that the rules and regulations of the said course at the relevant time permitted a candidate to complete the course by writing all the papers

simultaneously, i.e., at a time in a single sitting, provided the candidate having 3 year gap between the Intermediate and the three year degree course. The mere fact that the petitioner took a longer to qualify at such examination would not convert the otherwise a single sitting course into a regular course where the candidate would be undergoing the studies by attending to classes on regular basis.

19. A division bench of this court in the case of **Osmania University Vs. R. Madhavi & others<sup>1</sup>**, when a challenge was laid to the 5<sup>th</sup> respondent discontinuing the imparting education through external mode, while rejecting the contentions urged on behalf of the petitioners as to right of education guaranteed under the Constitution of India, observed, that the respondent University apart from holding regular courses of formal studies, has a system of non-formal system of studies through external examination without undergoing regular classes in the colleges recognised or run by the Universities. Thus, this court held that there were two separate categories of studies namely – formal studies, i.e., by attending to classes on regular basis and the other one being – non-formal studies, i.e., through external examination. Thus, the studies taken by a candidate under the first category can be considered as “*Learn to earn*”, while, undertaking studies through non-formal studies, by using

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<sup>1</sup> 1998 (1) ALD 212 = 1998 (1) ALT 309

regular time for making a leaving or pursuing other avocations, can be considered as “Earn to Learn”.

20. In the case of ***R. Thirunavukkarasu Vs. The State of Tamil Nadu***<sup>2</sup>, the Madras High court while dealing with the issue as to whether a degree obtained after undergoing a course duration of one year can be considered as equivalent to degree in same discipline obtained after undergoing a course of three years, observed that – “*1+1 is not equal to 3, is something that does not require a reference to an expert.*” By observing so, the court further held, “*the difference between a degree course obtained after studying for a duration of 3 years and a degree obtained, though in a similar discipline, but for a duration of one year, can never be considered as equals*”. Having regard to the above discussion, the claim of petitioner possessing degree equivalent to degree obtained through regular three year duration is misplaced.

21. Further, the Bar Council of India has been entrusted with the function of laying down the standard of legal education and recognition of degree in law for the admission as an Advocate. Based on the said power vested with the Bar Council of India, the council constituted Legal Education Committee under Section 19(2)(b) of the Advocates Act and the said committee after elaborate study had revised

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<sup>2</sup> 2012 (5) CTC 129 – Mad HC.

curriculum of provisional courses in consultation with Universities imparting legal education and the State Bar Council. Thus, the 4<sup>th</sup> respondent framed rules under the Advocates Act for laying down the standards in legal education to be complied with by the various Universities imparting legal education in the country in part 4 of the BCI Rules and the same has been approved and adopted by the 4<sup>th</sup> respondent vide resolution No.110/2008. By the said Rules framed by the Bar Council of India in part 4 of the said Rules as framed by the Bar Council of India, Rule 5 of the said Rules prescribed eligibility criteria for admission into three year law degree course. Rule 7 deals with minimum marks in qualifying examination for admission and Rule 8 lays down the standards of course. It is also to be seen that it is only subsequent to the above Rules being brought about by the Bar Council of India, the Universities have amended the eligibility criteria and the same appears to have been acted upon by the erstwhile Unified State of Andhra Pradesh also, by issuing G.O.Ms. No.31 dated 18.03.2009 whereby the Rule relating to eligibility criteria in the LAW CET examination has been amended. Thus, the claim of the petitioner that the condition relating to candidate requiring to have qualifying degree examination through three year regular course as having been introduced subsequent to the conduct of LAW CET 2019, is without basis and is liable to be rejected.

22. It is also to be seen that the enforceability of Rules of Legal Education 2008 under part 4 of BCI Rules in so far as it relates to standards relating to legal education is concerned, the same is no longer *resintegra* in view of the decision of this Court in **W.P. No.16858 of 2019** and batch of other cases, wherein the challenge was laid seeking quashing of the explanation added to Rule 5 of Rules of Legal Education, 2008, was negated by the judgment of the Division bench of this Court dated 31.12.2009 and the SLP preferred there against having been dismissed on 09.08.2010.

23. Further, the power of the Bar Council of India to frame Rules relating to standards of legal education has been considered by a Full bench of the Madras High Court in the case of **G.S. Jagadeesh v. The Chairman, 3 Year LLB Admission, 2016-17, The Tamil Nadu Dr. Ambedkar Law University, Chennai**<sup>3</sup>, wherein the High Court of Madras by its judgment dated 13.03.2018 was pleased to observe that -  
*“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 recognised as a mandatory eligibility criteria.”*  
 The Full bench of the Madras High Court further held that -  
*“The language and tenor of Rule 5(a) and 5(b) read with first proviso and the explanation make it amply clear that prosecution of a regular course is mandatory only for the*

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<sup>3</sup> Order in W.P. No.32984 of 2016 dated 13.03.2018

*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 programme.”*

24. In a case similar to the case of the present petitioner, has fallen for consideration before the High Court of Bombay in **Vinothan Krishnan Raman v. University of Mumbai**<sup>4</sup>, wherein the Division bench of the Bombay High Court observed that in order to grant admission, the Regulations at the time when a candidate seeks admission would have to be considered and not the Regulations which were in force when the candidate passed the qualifying examination in order to grant admission. The High Court of Bombay having regard to the facts of the case observed that the Regulations 2003 held the field when the petitioner was seeking admission to LLB degree course, though the Regulations when the petitioner passed the qualifying examination only prescribed a lower percentage of marks in aggregate for seeking admission into LLB course. On the basis of the above finding, the High Court of Bombay further went on to hold that the petitioner therein had (1) failed to obtain 45% in the B.Com degree examination of the Mumbai University and consequently failed to meet the eligibility requirement under Rule 7 of Rules of Legal Education, 2008 and Ordinance 5077 of Mumbai University; (2) B.A. degree which the petitioner obtained in

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<sup>4</sup> Order in W.P. No.872 of 2011 dated 31.12.2012

one sitting in Annamalai University failed to meet the requirement of the UGC Regulations of 2003 and held that on the basis of clear requirement of eligibility would not have entitled to pursue the LLB degree course on the date on which he applied for admission. Further, the High Court also observed that it is not open for this Court in exercise of jurisdiction under Article 226 of the Constitution of India to issue any direction contrary to the statutory requirement which hold the field.

25. Having regard to the views expressed by the Full bench of the Madras High Court and the Division bench of the Bombay High Court, though of persuasive value, since nothing contra has been shown to be the intent and purport of the 2<sup>nd</sup> respondent while conducting LAW CET examination and also keeping in view that the Advocates Act being a central and special enactment, whereunder the Bar Council of India having framed guidelines relating to legal education applicable uniformly across the country, including the 5<sup>th</sup> respondent University in order to have recognition to the LLB course offered, this court is of the view that –

- i) the petitioner does not meet the eligibility of having obtained three year degree programme by undertaking regular course as mandated by the Bar Council of India Rules on Legal Education of 2008 as amended in 2017; and

- ii) the petitioner not meeting the criteria specified in the notification issued relating to the conduct of TS LAW CET, 2019 in view of the proviso to clause (a) of sub-rule (iii) of Rule 3 of A.P. LAW CET Entrance Test Rules, 2004 governing the admissions relating to three year law course as amended by G.O.Ms. No.31 dated 18.03.2009, as adopted by the State of Telangana vide G.O. Ms. No. 25, Higher Education (TE/A2) Department, dated 22.07.2015, as per Section 101 of A.P. Reorganisation Act, 2014;

the petitioner is not entitled for grant of any relief from this court.

26. Accordingly, the Writ Petition is without merit and is dismissed. No order as to costs.

27. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

**T. VINOD KUMAR, J**

Date: 22.01.2020

Note: L.R. copy to be marked.

B/o  
MRKR

