

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 92 OF 2016**

Vibhuti Amarnath Agrawal & Ors.

..... Petitioners

V/s.

The State of Maharashtra & Ors.

..... Respondents

**WITH
NOTICE OF MOTION NO. 203 OF 2017
IN
PUBLIC INTEREST LITIGATION NO. 92 OF 2016
WITH
CHAMBER SUMMONS (L) NO. 307 OF 2017
IN
PUBLIC INTEREST LITIGATION NO. 92 OF 2016**

Adv. I. A. Saiyed for Petitioners.

Adv. Jyoti Chavan, AGP for State.

Adv. Shekhar Jagtap for Respondent No.4.

Adv. Rui Rodrigues for Respondent Nos.2 and 3.

Adv. Ajit Kenjale a/w A. Khan for Respondent No.12.

Adv. Manorama Mohanty i/by S. K. Srivastav & Co. for
Respondent Nos.15, 16 and 42.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : 25th OCTOBER, 2023

P.C.

1. Heard Shri. Saiyed, learned counsel representing the
Petitioners, learned AGP representing the State of Maharashtra,

Shri. Jagtap, learned counsel representing the Bar Council of India and Shri. Mohanty, learned counsel representing Respondent Nos.15, 16 and 42.

2. The proceedings of this Writ Petition have been instituted under Article 226 of the Constitution of India ostensibly in public interest by the Petitioners, who are the students pursuing their LLB degree course at SNDT Women's University Law School, Mumbai. The prayer clause of the Petition is extracted hereunder;

- i. BCI to withdraw the order of debarring the Law colleges.*
- ii. Lay down the guidelines for inspection to the concerned Universities by the BCI.*
- iii. Direct BCI not to collect any fees including inspection fees from the Law colleges and if at all to be recovered then the appropriate Government be directed to pay the same, and;*
- iv. BCI be directed not to have any direct/indirect control on the functioning of Law colleges, and prevent them from sending resolutions to the Law colleges every now and then.*

3. Having heard learned counsel for the parties and perused the records available before us on this Writ Petition, what we find is that this Writ Petition was filed under the circumstances where it appears that Bar Council of India (BCI)

intended to conduct certain inspection of the law schools where certain courses are being conducted leading to award of LL.B. degree. It is in this background that the first prayer made in the Writ Petition is that the BCI be directed to withdraw the order of debarring the law colleges, though no debarring order has been enclosed with the Writ Petition.

4. The other prayers made in the Writ Petition are that directions be issued laying down certain guidelines for inspections to be conducted by the BCI, and further that the BCI be directed not to collect any inspection fees from the law colleges. The fourth prayer made in the Petition is that directions be issued to BCI not to have any direct/indirect control on the functioning of the law colleges and further that they may be directed not to send any resolutions or directions to the law colleges every now and then.

5. From a perusal of the prayers made in the Writ Petition, what we find is that for seeking such prayers, if any cause of action can be said to have accrued, it is the colleges who can have cause of action to approach the Court seeking a

direction for withdrawal of the alleged order of debarring, etc. Even otherwise BCI is a statutory body created under the Advocates Act, 1961 which has been conferred certain functions by the Parliament by enacting the Advocates Act, 1961. Some of these functions are mandatory. BCI has a duty cast on it under Advocates Act, 1961 to lay down standards of professional conduct and etiquettes for advocates; to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting legal education and the State Bar Councils, and also to recognize Universities whose degree in law shall be a qualification for enrollment 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. Thus in terms of the provisions as contained in Section 7 of the Advocates Act, 1961, the BCI has been cast certain statutory duties which will encompass in itself the duty to recognize the Universities and cause inspection etc. for the purposes of promoting legal education and maintaining the standards of such education.

6. The Bar Council of India Rules have been framed under the Advocates Act, 1961 which requires that in case any

University proposes to run a professional degree course in law, it has to apply for inspection for a constituent college or University department or faculty. Rule 18 of the Bar Council of India Rules provides that any University seeking recognition of its degree in law for the purposes of enrollment at the bar, shall provide the inspecting committee of the BCI all necessary facilities to examine the syllabus of the course designed, teaching and learning process, evaluation system and infrastructure layout etc.

7. BCI has also been entrusted with the authority under Rule 20 of the Bar Council of India Rules to constitute one or more inspection and monitoring committee/s to conduct inspection of newly established or existing Universities. Rule 21 also permits BCI to prescribe inspection fees to be charged from time to time from each institution applying for the purpose of conducting inspection.

8. According to the scheme of the Advocates Act read with provisions as contained in Bar Council of India Rules, the BCI conducts inspection of the institutions imparting education in

law at three stages, viz., (i) before any such course leading to award of a degree essential for enrollment with the bar is initiated, (ii) during such course and (iii) in case any institution seeks expansion of its capacity to run the course.

9. In our considered opinion, if there is any college conducting the law course, where some debarment proceedings are drawn or any such order is passed, it is the college which can be said to be aggrieved. The grievance regarding the charging inspection fee etc. or framing of guidelines etc. can also be raised only by such colleges.

10. If we look at the evolution of doctrine of Public Interest Litigation, what we find is that essentially this jurisprudence has been evolved by the Hon'ble Supreme Court to relax the rule of locus standi, in other words, the rule of locus standi was relaxed by the Hon'ble Supreme Court for developing the Public Interest Litigation Petition as an instrument to come to the rescue of those sufferers who were in some disadvantageous position for reason of poverty or because of any other incapacity. In case the persons or group of persons on whose behalf or for

whose benefit Public Interest Litigation is intended to be filed are incapacitated for any reason, the Public Interest Litigation Petitions must be entertained by the Court. However in case such persons are not incapacitated, taking up cause of such persons by any other individual should not be permitted, at the same time.

11. What we see in this case is that the law students, who are the Petitioners, have attempted to take up the cause of the law colleges, who cannot, in any manner, be said to be incapacitated on any count to espouse their own cause by instituting the Writ Petitions for the reliefs which have been prayed for in this Writ Petition.

12. For the aforesaid reason, we are of the considered opinion that at the instance of the Petitioners, this Public Interest Petition cannot be entertained, which is hereby dismissed.

13. At this juncture, we have been informed that certain colleges have also filed the Writ Petitions with somewhat similar prayers as have been made in this Writ Petition. We thus

observe that the Writ Petitions instituted by the individual colleges shall be taken up and decided on their own merits irrespective of the decision in this Writ Petition.

14. In view of the dismissal of the PIL, interlocutory applications, if any, do not survive and are disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)