

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-13091-2023 (O&M)
Date of decision : 22.11.2023

SHRUTI BEDI

...Petitioner

Versus

PANJAB UNIVERSITY, SECTOR 14, CHANDIGARH
THROUGH ITS VICE CHANCELLOR AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Dr. D.S. Patwalia, Senior Advocate
with Mr. Kannan Malik, Advocate
for the petitioner.

Mr. Akshay Kumar Goel, Advocate
for respondents No.1 to 4.

Mr. Rajiv Atma Ram, Senior Advocate
with Mr. R.K. Hooda, Advocate
Ms. Sanah Sahni, Advocate
Ms. Shreya Kaushik, Advocate
and Ms. Rahat Sekhon, Advocate
for respondent No.5.

Mr. Rahul Pandey, Advocate
and Mr. Abhay Gupta, Advocate
for respondent No.6.

Mr. Dinesh Kumar, Advocate
and Mr. Arvind Gulav, Advocate
for respondents No.7 and 8.

HARSH BUNGER, J.

Petitioner (Shruti Bedi) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of *certiorari* for quashing of order dated 31.05.2023 (Annexure P-13) appointing respondent No.6 as Director of University Institute of Legal Studies, Panjab University (respondent No.4).

A further prayer has been made for issuing a writ in the nature of *Quo-Warranto* against respondent No.6, who is stated to have usurped the public post of Director of University Institute of Legal Studies, having been appointed vide order dated 31.05.2023 (Annexure P-13) despite not being qualified as per the provisions of Rules of Legal Education, 2008.

Another prayer has been made for issuing a writ in the nature of *mandamus* directing respondent Nos.1 to 3 to appoint the petitioner as Director of respondent No.4-University Institute of Legal Studies, Panjab University, Chandigarh, being the senior-most eligible faculty member, as per the Rules of Legal Education, 2008 (Annexure P-2) read with Panjab University Rules of Headship of Teaching Departments of Panjab University Calendar, 2019 (Annexure P-1).

2. Briefly, the University Institute of Legal Studies (here-in-after called as 'the Institute') was constituted by the Panjab University in the year 2004; wherein the programme of five years' degree in B.A. LL.B. and B.Com LL.B, as well as, programmes awarding one year and two years LL.M. Degrees are undertaken and degrees are awarded. It is stated that respondent No.4-Institute has secured the approval/affiliation from the Bar Council of India (respondent No.5) which is the governing body in cases of institutions imparting legal education in India.

3. Then there are Rules of Headship of Teaching Department of Panjab University (in short '**Rules of Headship**') as per Panjab University Calendar, 2019; whereby, each and every department of the University is required to have a Chairperson/Head, who is designated by the Senate on the recommendations of the Syndicate. Rule 2.1 of the Rules of Headship provides for appointment of Chairperson/Head of the Department on rotation

basis from amongst the Professors by maintaining a seniority thereof. Further, in terms of Rule 2.3 of the Rules of Headship, the Chairperson/Head of the Department holds the office for a period of three years and after the cessation of the said period, the post is filled up from amongst the other eligible candidates in the Department by way of rotation. The aforesaid Rules 2.1 and 2.3 of the Rules of Headship, read as under :-

“2.1 Each Teaching Department shall have a Chairperson/Head to be designated by the Senate on the recommendations of the Syndicate in the manner provided as under:-

(i)(a) The Chairperson/Head of a Department shall be designated, by rotation, from amongst the Professors in the Department appointed by way of direct recruitment or by way of promotion or by any other method approved by the Senate, according to length of service as such in the Panjab University, irrespective of the method of appointment.

(b) In case the length of service as Professors appointed by way of direct recruitment or by way of promotion or by any other method approved by the Senate is equal, then the Chairperson/Head will be designated on the basis of their inter-se seniority in the lower cadre. However, from amongst Professors directly recruited on the same day by the same Selection Committee, their turn for designation as Chairperson/Head shall be determined on the basis of the ranking approved by the Senate.

(ii) xxx xxx

2.2. xxx xxx

2.3. A person designated as Chairperson/Head of the Department shall hold office as such for a period of three years and shall not be eligible for designation for the second time till all the Professors/Associate Professor/Assistant Professor in the Department have been designated as Chairperson/Head in accordance with Rule 2.1.

However, where no other Professor/Associate Professor/Assistant Professor is available or eligible, the same person can be allowed to continue as Chairperson/Head of the Department for a period of another three years or till the next person in the Department becomes eligible, whichever is earlier.

Provided that a Chairperson/Head of a Department on attaining the age of superannuation i.e. 60 years shall cease to hold office as such.”

Rule 2.7 of the Rules of Headship provides for powers and functions of the Chairperson/Head of the Department.

4. Further, the Bar Council of India (respondent No.5), while exercising its power under Sections 7(1)(h) and (i), 24(1)(c)(iii) and (iii-a), 49(1)(af), (ag) and (d) of the Advocates’ Act, 1961 (here-in-after referred to as ‘1961 Act’) has promulgated the Rules of Legal Education, 2008 (here-in-after referred to as ‘**2008 Rules**’), which lays down the minimum standards required to be fulfilled by any Institute/ College/University for undertaking programmes awarding degrees in law. Petitioner claims that the afore-said 2008 Rules are fully applicable upon respondent No.4-Institute, as the said

Institute is a Center of Legal Education, as defined under Rule 2(iv) of the 2008 Rules, which reads as under :-

“2(iv) Centres of Legal Education” means

(a) All approved Departments of Law of Universities, Colleges of Law, Constituent Colleges under recognized Universities and affiliated Colleges or Schools of law of recognized Universities so approved.

Provided that a Department or College or Institution conducting correspondence courses through distance education shall not be included.

(b) National Law Universities constituted and established by statutes of the Union or States and mandated to start and run Law courses.”

5. As per Rule 26 of the 2008 Rules, the recognition/approval to operate a Centre of Legal Education is accorded by Bar Council of India (respondent No.5). Rule 26 of the 2008 Rules reads as under :-

“26. Approval

The Bar Council of India on the recommendation of the Legal Education Committee shall instruct the Secretary to send a letter of approval of any one of the following type to the Head of the Institution as well as to the Registrar of the University:

*(a) **Temporary approval:** On the Initial inspection report or Regular Inspection report the Legal Education Committee may recommend a temporary approval for not more than a period of three years to a newly proposed institution in the event the institution has facilities enough to*

commence the teaching program on such conditions as the Legal Education Committee may prescribe.

*(b) **Regular approval** : A regular approval may be recommended for not more than a period of five years when an institution fulfills all standard set norms and has the capability of maintaining such standard continuously. Such regular approval shall entitle such institution to seek accreditation from the Bar Council of India who can do the same either of its own according to rules of accreditation or may cause it done by the National Assessment and Accreditation Council.”*

6. Rule 14 of the 2008 Rules (Annexure P-2) provides that Centres of Legal Education not to impart education without approval of Bar Council of India. Rule 16 of the 2008 Rules lays down the conditions for a university to affiliate a Centre of Legal Education, which *inter-alia* requires such Centre to have a separate Principal, who should be qualified in Law to be a Professor of Law. Rule 17 of the 2008 Rules provides that every department or constituent institute of the university is mandated to fulfill the minimum standards of requirement as have been prescribed by the Bar Council of India and Rule 18 of the 2008 Rules provides that every department, faculty, constituent and affiliated Centre of Legal Education are required to have the minimum required infrastructural facilities as envisaged under 2008 Rules. Rules 16, 17 and 18 of the 2008 Rules, reads as under :-

“16. Conditions for a University to affiliate a Centre of Legal Education

(1) When a University receives an application for affiliation of a Centre of Legal Education to provide legal education by running professional

degree program in law under either or both the streams, the University may before deciding whether it is fit case for seeking inspection from the Bar Council of India, shall ensure that

- (i) the applicant organization proposing to run the institution is either already a non-profit organization of trust or registered society or a non-profit company or any other such legal entity or has taken all legal formalities to be as such,*
- (ii) the institution has in its name either in freehold or leasehold, adequate land and buildings, to provide for Centre of Legal Education building, library, halls of residences separately for male and female and sports complex both indoor and outdoor, so that it can effectively run professional law courses provided that in case of leasehold the lease is not less than ten years,*

Provided that sufficient and adequate floor space area specially and completely devoted for a Centre of Legal Education, based on the size of its student population, faculty requirement, adequate space required for infrastructure facilities can be considered sufficient accommodation for the purpose in a multi-faculty building on land possessed by the Management of a Society/Trust running multi-faculty institutions.

- (iii) recruited or taken steps to recruit adequate number of full time and visiting faculty members to teach each subjects of studies, each faculty having at least a Master Degree in the respective subject as required under the UGC Rules,*

(iv) ***there is the separate Centres of Legal Education for the study of law under a separate Principal who should be qualified in Law to be a Professor of Law as stipulated under UGC and Bar Council of India rules,***

(v) *there is adequate space for reading in the library and there are required number of books and journals and adequate number of computers and computer terminals under a qualified librarian,*

(vi) *if the prior permission of the State Government is necessary, a no objection certificate is obtained to apply for affiliation,*

(vii) *a minimum Capital Fund as may be required under Schedule III from time to time by the Bar Council of India, and put into a Bank Account in the name of the proposed Centre of Legal Education sponsored by any private sponsor or sponsors, and*

(viii) ***all other conditions of affiliation under the University rules as well as the Bar Council of India Rules are complied with.***”

(2) *After affiliation order is received from the University the Centres of Legal Education may only then apply for inspection by the Bar Council of India.*

17. When can University apply for inspection for constituent College or University Department or Faculty

When a University proposes to run a professional degree course in law of either or both streams in its Faculty or Department or in any of its constituent College it shall ensure the minimum standards of requirement (as prescribed) and then shall in each proposal seek inspection by the

team of inspection of the Bar Council of India by submission of application with all necessary information within the stipulated date notified by the Bar Council of India every year, in appropriate Form.

18. Inspection of a University

(1) A University seeking recognition of its degree in law for the purpose of enrolment in the Bar, shall provide the inspecting committee of the Bar Council of India all necessary facilities to examine the syllabus of the course designed, teaching and learning process, evaluation system, infrastructure layout and other necessary conditions in general and shall ensure in particular that all University Departmental Centres, Faculty, Constituent and affiliated Centres of Legal Education proposing to offer law courses under either or both the streams, possess:

- (i) Required infrastructural facilities outlined under the Bar Council of India Rules;*
- (ii) Required number of teaching faculties as prescribed by the Bar Council of India and the University Grants Commission;*
- (iii) Facilities for imparting practical legal education specified in the curriculum under the Rules and Legal Aid Clinic, Court Training and Moot Court exercises;*
- (iv) Adequate library, computer and technical facilities including on-line library facility and*

(v) *In case of a Centre of Legal Education sponsored by private initiative of a person there is a Capital Fund as required in the Schedule III by the Bar Council of India from time to time, deposited in the Bank Account in the name of the Centre of Legal Education concerned.*

(2) *For the above purpose the Inspection Committee of the Bar Council of India shall have power to call for and examine all relevant documents, enquire into all necessary information and physically visit and enquire at the location of the Department, Faculty, Constituent and affiliated Centres of Legal Education as the case may be.*

Provided that an application for a new proposal for affiliation and the related University inspection therefore by the Inspection Committee of the Bar Council of India, including the local enquiry at the site of the proposed College may be formally made directly by the authority of the proposed College (Faculty, University Department, Constituent or Centres of Legal Education as the case may be) in proper Form with required information and requisite fees provided that an advance copy of the application must be submitted to the University concerned, within the stipulated date as notified by the Bar Council of India.”

7. Schedule III of the 2008 Rules, provides for the infrastructural facilities required in a Centre of Legal Education for applying permission to run law courses with affiliation from an Indian University. Clause 16 of Schedule III of the 2008 Rules, as would be relevant for the instant case, reads as under:-

Schedule III

**Minimum infrastructural facilities required
in a Centre of Legal Education for applying
permission to run law courses with affiliation
from an Indian University.**

Academic infrastructure

“15. Minimum Library requirement:

XXX XXX XXX

16. Whole time Principal/Head/Dean: There shall be a Principal for each constituent or affiliated Centre of Legal Education of a University and a Dean for the University Department, who shall have minimum prescribed qualification in law as prescribed by the UGC for respective position like Principal of a Centre of Legal Education or a Professor of Law to hold Deanship, as the case may be.”

8. The University Grants Commission (in short '***the UGC***') has issued UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education Rules, 2018 (here-in-after called as '***2018 Regulations***') Regulation 4.1(V) of 2018

Regulations (Annexure P-3) lays down the eligibility for appointment as to the post of College Principal and Professor, which is as follows:-

“4.0 Direct Recruitment

4.1 For the Disciplines of Arts, Commerce, Humanities, Education, Law, Social Sciences, Sciences, Languages, Library Science, Physical Education, and Journalism & Mass Communication.

I to IV xxx xxx

***V. College Principal and Professor
(Professor’s Grade)***

A. Eligibility :

- (i) Ph.D. degree*
- (ii) Professor/Associate Professor with a total service/ experience of at least fifteen years of teaching/research in Universities, Colleges and other institutions of higher education.*
- (iii) A minimum of 10 research publications in peer-reviewed or UGC-listed journals.*
- (iv) A minimum of 110 Research Score as per Appendix II, Table 2.”*

9. As per petitioner, in terms of the 2008 Rules and 2018 Regulations, the post of Principal/Head/Dean of an Institute, which is a Centre of Legal Education, such as the respondent No.4-Institute herein; the requirement is that a candidate should possess Ph.D. degree in the subject of Law and should have the total experience of at least 15 years of teaching in the concerned subject.

10. Petitioner claims that she was appointed as a Lecturer in Law in respondent No.4-Institute on 30.09.2004 and was placed as Senior Scale Lecturer w.e.f. 05.10.2008 vide order dated 31.07.2009 (Annexure P-5).

Petitioner is stated to have been promoted as Professor of Law in pursuance

to the Career Advancement Scheme (CAS) w.e.f. 05.10.2019 vide order dated 04.06.2020 (Annexure P-6).

11. It would not be out of place to mention here that in the respondent No.4-Institute, besides the Legal Studies, the programmes undertaken at the Degree level also includes subjects of Social Sciences, Commerce etc. As per the petitioner, separate faculty/ies has/ve been engaged and are working in the respondent No.4-Institute, who are teaching the aforesaid subjects/fields and the existing seniority list of the Professors in respondent No.4-Institute upto the petitioner, is as under :-

<i>Sr. No.</i>	<i>Name</i>	<i>Subject</i>
1.	Professor Rattan Singh	Professor of Law
2.	Professor Rajinder Kaur	Professor of Law
3.	Professor Sarabjit Kaur	Professor of Political Science
4.	Professor Gulshan Kumar	Professor of Economics
5.	Professor Chanchal Narang	Professor of English
6.	Professor Navneet Arora	Professor of Sociology
7.	Professor Shruti Bedi	Professor of Law

(Note: As per stand of Respondents No. 1 to 4, Prof. Chanchal Narang is at Sr. No. 6 and Prof. Navneet Arora is at Sr. No. 5)

12. Petitioner states that as per the above seniority list, only Professor Rattan Singh, Professor Rajinder Kaur and petitioner herself are the Professors of Law; whereas, the other persons are Professors in different fields namely, Political Science, Economics, English and Sociology.

13. Petitioner claims that the respondent No.4-Institute, being a Centre of Legal Education, has always been headed by a Professor of Law and the charge of Director in the respondent No.4-Institute (which is a nomenclature given in place of Chairman/Head as prescribed in the

University Regulations) has only been manned by a Professor of Law on rotation basis, as under :-

<i>Sr. No.</i>	<i>Name & Designation</i>	<i>Period</i>
1.	Professor R.S. Grewal, Professor of Law	08.04.2004 to 31.10.2008
2.	Professor P.S. Jaswal, Professor of Law	04.11.2008 to 23.07.2009
3.	Professor Sangita Bhalla, Professor of Law	24.07.2009 to 31.05.2017
4.	Professor Rattan Singh, Professor of Law	01.06.2017 to 31.05.2020
5.	Professor Rajinder Kaur, Professor of Law	01.06.2020 to 31.05.2023

14. According to the petitioner, in view of the afore-stated averments, for the post of Director in respondent No.4-Institute, the candidate/faculty members, should be Professors of Law; however, respondent No.6, who is a Professor of Political Science; has been appointed as a Director w.e.f. 01.06.2023 in blatant violation of the various Rules/Regulations.

15. Petitioner claims that earlier she and the other Law faculty of respondent No.4-Institute had submitted a representation dated 14.09.2022 to respondent No.4-Institute, specifically raising the issue qua appointment of a Director highlighting that only the next senior-most Professor of Law in respondent No.4-Institute would be eligible for appointment as a Director and a candidate/faculty member, who is not a Professor in the Field of Law, should not be considered for the said post. It is stated that a copy of the afore-said representation was also forwarded to the Bar Council of India (respondent No.5); whereupon, the Bar Council of India has issued a letter dated 03.11.2022 (Annexure P-8) clearly stating that the Head or Dean of

Department of Law of a University is required to have minimum 15 years teaching experience in law.

16. Since the term of Professor Rajinder Kaur as Director was due to end on 31.05.2023, the petitioner along with other faculty members had earlier filed a Writ Petition (**CWP No.4518 of 2023**) before this Court, seeking a direction to the University to make a regular appointment to the post of Director of Institute(*respondent No.4 herein*).

17. In the afore-said **Writ Petition No.4518 of 2023**, Bar Council of India filed its written statement (Annexure P-9) taking a categorical stand that Rule 16(iv) and clause 16 of Schedule III of the 2008 Rules clearly mandated that Principal / Head of the Department / Dean of a Centre of Legal Education must be a person, who is qualified to be Professor of law and a person, who is otherwise not qualified to be Professor of law cannot be Principal / Head of the Department / Dean of a Centre of Legal Education.

18. During the pendency of **Writ Petition No.4518 of 2023**, the respondent-University passed an order dated 31.05.2023 (Annexure P-13) appointing respondent No.6 as Director of respondent No.4-Institute w.e.f. 01.06.2023. It appears that the afore-said Writ Petition was withdrawn by the petitioner and others by submitting that they would challenge the order dated 31.05.2023, appointing respondent No.6 herein as Director of respondent No.4-Institute.

19. In the afore-mentioned circumstances, the present writ petition has been filed by the petitioner before this Court.

20. Learned senior counsel for the petitioner submits that the Bar Council of India has enacted/promulgated the Rules of Legal Education,

2008; accordingly, the provisions thereof are binding on all the Universities/ Institutes that have been granted recognition/approval by the Bar Council of India as the said 2008 Rules have the force of law. It is contended that respondent No.1-University and respondent No.4-Institute, in order to seek extension of recognition/approval from Bar Council of India (respondent No.5) had submitted an affidavit dated 13.03.2020 (Annexure P-15) to the Bar Council of India, specifically stating that the Institute had already appointed a qualified Head of the Institute and that they would adhere to the Education Rules laid down by the Bar Council of India.

21. As per the petitioner's counsel, in terms of the provisions contained in 2008 Rules read with Clause 16 of Schedule III of 2008 Rules; a Head of the Institute i.e. the Director in the present case, can only be appointed from amongst the faculty members, who fulfill the minimum prescribed qualification in the field of Law and further have a minimum experience of 15 years as such. It is submitted that order dated 31.05.2023 (Annexure P-13), appointing respondent No.6 as the Director of respondent No.4-Institute, is in violation of the provisions of 2008 Rules read with Rules of Headship, as respondent No.6 is a Professor of Political Science; therefore she does not fulfill the aforesaid conditions, accordingly, she is not eligible to be appointed as a Director and the petitioner, who is the only next eligible candidate being a Professor of Law, is required to be appointed as the Director of respondent No.4-Institute.

22. Learned senior counsel for the petitioner next submits that the issue as regards the authority and validity of the 2008 Rules, promulgated by the Bar Council of India, came up for consideration before the Hon'ble Supreme Court of India in '*Bar Council of India Versus Board of*

Management, Dayanand College of Law’ 2007(2) SCC 202; wherein, it was held that the Rules framed by the Bar Council of India would prevail *viz-a-viz* the regulation of the University, especially once there was no provision in the University regulation that were contrary to the Rules laid down by the Bar Council of India.

23. Learned senior counsel for the petitioner further submits that in the earlier Writ Petition i.e. ***CWP No.4518 of 2018***, the Bar Council of India had submitted its written statement; wherein, it was specifically stated that it does not grant recognition to Universities unless they fulfill the requirements as have been set out by the Bar Council of India, in its Rules/Regulations and the qualifications of teachers and other faculty/infrastructure in Law Institutes as laid down in the 2008 Rules, are binding on the Institutions/Universities, which are imparting legal education in India. Accordingly, it is contended by learned senior counsel for the petitioner that in view of the stand taken by the Bar Council of India in the earlier ***CWP No.4518 of 2018***, the Principal/Head of the Department must be a qualified Professor of Law; however, respondent No.6 has been appointed in an illegal and arbitrary manner.

Learned senior counsel for the petitioner contends that in the earlier ***CWP No.4518 of 2018***, respondent No.1-University had already admitted that respondent No.4-Institute is a Center of Legal Education, as defined under Rule 2(iv) of the 2008 Rules. However, it is submitted that the University has taken a contrary stand by submitting that the Rules laying down the minimum infrastructure requirements are not applicable to respondent No.4-Institute. It is contended that only on account of such

selective implementation of the 2008 Rules, the impugned order dated 31.05.2023, appointing respondent No.6 as the Director, has been passed.

Learned senior counsel for the petitioner has lastly submitted that a perusal of Rule 2.7 of the 2008 Rules would clearly indicate that a Head of the Teaching Department, *de hors* the nomenclature of the post, amongst other acts, supervises and provides academic leadership to the Department, acts as the financial head of the Department and co-ordinates the teaching, research and administrative work of the Department. It is submitted that once the 2008 Rules clearly prescribe that the Head of each constituent Centre of Legal Education was required to fulfill the minimum prescribed qualification in Law, especially Clause 16 of Schedule III of 2008 Rules, which state that there should be a Principal/Head/Dean for each Centre of Legal Education, who fulfills the minimum prescribed qualification in Law; accordingly, the impugned order dated 31.05.2023, appointing respondent No.6 as the Director of respondent No.4-Institute, is clearly unsustainable, being in violation of the statutory provisions.

On the basis of the afore-said submissions, learned senior counsel for the petitioner prays that the instant writ petition be allowed by quashing the order dated 31.05.2023 (Annexure P-13) and appropriate directions be issued to respondent No.1-University to appoint the petitioner as the Head of respondent No.4-Institute.

24. Per contra, the afore-said submissions made on behalf of the petitioner, have been opposed by respondent/University (respondents No.1 to 4, herein) on the grounds which can be, *inter-alia*, broadly summed up as under:-

- a) *As per the old Rules of Legal Education (prior to 2008 Rules), the Bar Council of India introduced and allowed*

*the universities only to start B.A.LL.B 5 year degree course. Therefore, the Panjab University started B.A.LL.B 5 year integrated course, **on self-supporting basis**, from the session 2004-05;*

- b) There is no sanctioned regular post of Director in the Department. The designation assigned to the appointee is only honorary.*
- c) All the Law Departments of the University, including UILS and the Regional Centres of the University, fall under the definition of Clause (iv) of Rule 2 of the Rules of Legal Education-2008 i.e. “Centre of Legal Education”. They, however, are not Colleges of Law, constituent Colleges under the recognized University and affiliated Colleges or Schools of Law of recognized University so approved etc. Thus, the UILS is not a ‘Constituent College’ or ‘affiliated college’ of the University but an “approved department of Law.”*
- d) Clause 16 of Schedule III of the said Rules, 2008 applies to two Institutions distinctly viz., there shall be a “PRINCIPAL” for each constituent or affiliated Centre of legal Education i.e. Constituent or affiliated College and a Dean for the “University department”, who shall have minimum prescribed qualification in law as prescribed by the UGC for respective position like Principal of a Centre of Legal Education or a Professor of Law to hold Deanship, as the case may be. Therefore, the provisions of Rule 16 of the Rules of Legal Education, 2008 and Clause 16 of Schedule III thereof to the extent that there shall be a Principal for each Constituent or affiliated Centre of Legal Education of a University are not applicable to the facts of the instant petition.*
- e) The provisions of Clause 16 to the effect that there shall be a Dean for the University Department are applicable to the case in hand. None of the provisions of Clause 16*

of Schedule III of Rules of Legal Education-2008 apply for the post of Director of UILS;

- f) *The academic affairs of the department of law and UILS of the University and law departments of the Regional Centres are being looked after by the Faculty of Laws established by the University. The 'Faculty of Laws' consists of Department of law and University Institute of legal Studies of the University. It squarely covers the requirement of the provisions of Clause 16 of the said Schedule III for having a whole time Dean for the University Department. Dean (Law) for all purposes holds deanship of all the departments of law of the University. At present, Dr. Rajinder Kaur (Professor of Law) is Dean, Faculty of Law.*
- g) *UILS imparts B.A./B.Com. LL.B (Hons.) five years integrated Course as per Clause (xiii) of Rule 2 of the Rules of Legal Education-2008. The University offers total subjects in liberal discipline in integrated stream as per the scheme laid under the provisions of Rule 3 and 6, Schedule II of the Rules-2008. The faculty of UILS consists of Professors/Associate Professors/Assistant Professors in Law and Social Sciences i.e. Political Science, Economics, Sociology, English, History. All the teachers are to be appointed as per the provisions of UGC Regulations issued from time to time and adopted by the University. There is no separate list of teachers imparting instructions in law subjects and other social science subjects. There is one common list for the teachers imparting instructions in law subjects and other social science subjects on the basis of their date of joining (direct recruitment and promotion). Therefore, each and every teacher of UILS is entitled to be appointed as Director of UILS by rotation as per the provisions of **Chapter LII, Vol. III, P.U. Calendar 2019, Page 714** pertaining to 'Rotation of Headship-Teaching*

Departments.’ None of the teachers is denied equality before law. They are entitled to equal protection of the laws and equal opportunity to be appointed as Director of UILS irrespective of the fact that he/she imparts instruction in law subjects and other social science subjects.

- h) Provisions of Rule 17 and 18 of 2008 Rules are applicable except Rule 16 of 2008 Rules upon any of the law department including UILS of the University and the Regional Centres of the University.*
- i) Bar Council of India is not empowered to frame Rules regarding recruitments of teaching faculty as it is the function of the UGC and the University.*
- j) Bar Council of India cannot describe the duties to be performed by the principal of affiliated college etc. and Dean of the Faculty/Department.*
- k) The decision of the Hon’ble Supreme Court of India in ‘**Bar Council of India Versus Board of Management, Dayanand College of Law**’ 2007(2) SCC 202; is not applicable to the instant case.*
- l) Affidavit (Annexure P-15) is being misinterpreted as approval of affiliation is by Bar Council of India and not by University and the Institution is a Constituent Department of Panjab University.*
- m) UILS is a constituent department of University i.e. established and maintained by the university under Rule 17 of 2008 Rules which neither require any prior permission / NOC of the State Government nor any affiliation of the University.*

On the basis of afore-said submissions, prayer for dismissal of writ petition was made.

25. As regards the respondent No.5, a statement was made on 17.07.2023 by the learned senior counsel representing respondent No.5 that they adopt the reply dated 23.03.2023 filed in the earlier writ petition

(CWP-4518-2023), which is attached to the writ petition as Annexure P-9.

Accordingly, the stand of Bar Council of India (respondent No.5 herein) as indicated in Annexure P-9 can be summed up broadly, as under: -

- i. *The Bar Council of India is constituted under Section 4 of the Advocates Act and it consists of 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 and it is a body corporate.*
- ii. *Bar Council of India is an independent statutory body, which has been entrusted to regulate Legal Education. The functions assigned to Bar Council of India are enumerated in Section 7 of the 1961 Act.*
- iii. *Section 7(1)(h) and (i) of the 1961 Act lays down the function of the Bar Council of India to promote the Legal Education and to lay down standards of such education in consultation with Universities in India, imparting such education and State Bar Councils and recognize Universities, whose degree shall be a qualification for enrollment as an Advocate, including inspection of such Universities.*
- iv. *Reference is made to the judgment rendered by the Hon'ble Supreme Court of India in **Bar Council of India versus Aparna Basu Mallick 1994(2) SCC 102**; wherein, it was held that Section 49(1)(d) empowers the Bar Council of India to make rules which may prescribe the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose and if the acquisition of a degree in law is essential for being qualified to be admitted as an advocate on a State roll, it is obvious that the Bar Council of India must have the authority to prescribe the standards of legal education to be observed by Universities in the country.*

- v. *Role of the Bar Council of India and that of the University Grants Commission is independent of each other.*
- vi. *University Grants Commission, under its regulation, has specifically laid down that the proposed college seeking affiliation should also comply with the requirements set out by Bar Council of India. Reference is made to the provisions of Sections 2.6, 3.1 and 5.1 of the University Grants Commission (Affiliation of Colleges by Universities Regulations, 2009), which read as under:-*

“2. Definitions: In these Regulations:

2.6 “Statutory/Regulatory body” means a body so constituted by a Central/State Government Act for setting and maintaining standards in the relevant areas of higher education, such as All India Council for Technical Education (ACTE), Medical Council of India (MCI), Dental Council of India (DCI), National Council for Teacher Education (NCTE), Bar Council of India (BCI), etc.

3. Eligibility Criteria for Temporary Affiliation:-

3.1. The proposed college seeking affiliation, at the time of inspection by the University, shall satisfy the following requirements or the requirements in respect of any of them prescribed by the Statutory/Regulatory body concerned, whichever is higher.

5. Eligibility Criteria for Permanent Affiliation :-

5.1. The college shall have completed at least five years of satisfactory performance after getting temporary affiliation and attained the academic and administrative standards as

***prescribed by the University/UGC/Statutory/
Regulatory Body concerned from time to time.”***

- vii. *Section 10(2)(b) of the Advocates Act 1961, empowers Bar Council of India to constitute a ‘Legal Education Committee’, which is defined under Rule 2(xvi) of 2008 Rules.*
- viii. *The Legal Education Committee at its meeting held on 4th May, 2007 decided to circulate draft rules to all the universities and State Bar Councils with a request to send their comments on the same. It is stated that the Bar Council of India vide its letter No.BCI:D:1518/2008 (LE/Rules Part IV) dated 24.12.2008 circulated to the Universities, the gazette rules which were notified in the Gazette of India vide Part-III, Section 4, New Delhi, 21-27, 2009. The new Rules of Legal Education, 2008, were implemented from the academic year 2009-2010.*
- ix. *It is mandatory and obligatory upon all the universities and institutions to adapt to the rules of Legal Education as prescribed by the Bar Council of India.*
- x. *The 2008 Rules provide for minimum standards of legal education and that the Universities and/or Institutions can set higher standards of education in conformity with the minimum standards of Legal education as prescribed by the Bar Council of India. The broad outline of the academic standards and courses to be studied are detailed out in Schedule II and the parameters pertaining to minimum infrastructural facilities required are spelt out on Schedule III of the Legal Education Rules, 2008.*
- xi. *Under the rules of Bar Council of India, Schedule III, Clause 16, prescribes that whole time Principal/Head/Dean for each constituent of affiliated Centre of Legal Education of a University and a Dean for the University Department, who shall have minimum prescribed qualification in law as prescribed by the UGC for respective position like Principal of a Centre of Legal*

Education or a Professor of Law to hold Deanship as the case may be.

- xii. *Since the Bar Council of India is the governing body with regard to the standard of legal education to be observed in the Universities/Institutes in India, the provisions of Clause 16 of Schedule III of 2008 Rules are binding on all institutes/Universities that have been granted recognition/approval by the Bar Council of India.*
- xiii. *Further, Rule 16 of the Rules, 2008 lays down the Conditions for a University to affiliate a Centre of Legal Education and as per Rule 16(iv), the Centre for Legal Education is required to have a separate Principal, who should be qualified in Law to be a Professor of Law. Rule 16(iv) reads as under :-*

“(iv) there is the separate Centre of Legal Education for the study of law under a separate Principal who should be qualified in Law to be a Professor of Law as stipulated under UGC and Bar Council of India rules.”

- xiv. *Legal Education Rules 2008 under Rule 16(iv) and Clause 16 of Schedule III of the Legal Education Rules, 2008 clearly mandated that Principal/Head of the Department/Dan of a Centre of Legal Education must be a person, who qualified to be Professor of Law and a person, who is otherwise not qualified to be Professor of Law cannot be Principal/Head of the Department/Dean of a Centre of Legal Education.*

*Even the Hon’ble Supreme Court in the case of **Bar Council of India Vs. Board of Management Dayanand College of Law & Ors.: (2007)2 SCC 202** has held that a Doctorate holder in any of the law subjects could alone be appointed as the Principal of a Law College. It further stated that when a request is made for selection of a Principal of a law college, the University and the Selection Committee has to ensure that*

applications are invited from those who are qualified to be principals of a law college in terms of the Rules of the Bar Council and from the list prepared, a person possessing the requisite qualification, is nominated and appointed as the Principal of a law college.

xv. *Any appointment made contrary to the relevant rules is illegal and not sustainable in the eyes of law.*

xvi. *On receipt of representation dated 03.11.2022 (Annexure P-8 in earlier writ as well as in instant writ), it was warned to the concerned that if the rule is not followed then the matter will be referred to the Legal education Committee for necessary action.*

26. Respondent no.6 has filed her separate written statement; wherein, it has been stated that she has been appointed as a Director of University Institute of Legal Studies in accordance with the service rules of University, which is an autonomous institute. As per Rule 2.1(i)(a) of Chapter LII of University Calendar, respondent No.6 has been appointed by way of rotation in accordance with seniority. Respondent no.6 states that she is the senior most Professor and is the only eligible candidate as per the service rules of the University. It is further submitted that the Bar Council of India does not frame service rules for any University and College and as a result, it cannot disturb seniority list of any department of University. It is stated that the Director is appointed by way of rotation in accordance with seniority as prescribed by University rules and disturbing such seniority list would be *ultra vires* the equality principles as enshrined under Articles 14 and 16 of the Constitution of India. It is next submitted that the courses, which are being conducted by the University-Institute of Legal Studies, are integrated courses, which are BA-LLB and B.Com. LLB and the University is also implementing the National Education Policy 2020 in a phased manner

where emphasis is from single discipline courses to multi-discipline courses and in a changing scenario, University has to frame service rules which are in coherence with the changing environment. The present rule qua appointment of Director by way of rotation in accordance with seniority is completely in coherence with changing education policy, which is need of the hour.

It is further submitted by respondent No.6 that the University Institute of Legal Studies (UILS) was established as a constituent department of the University by the Panjab University in the year 2004 for starting B.A. LL.B. (Hons.) 5 years Integrated Course, ***on self-financing basis***, from the Session 2004-2005. The Syndicate vide its decision dated 09.12.2003 approved the transfer of one post of Professor and three posts of Lecturers from the University teaching departments for 5 years B.A. LL.B. (Hons.) integrated course starting from the Session 2004-2005. The Syndicate vide its decision dated 24.01.2004, approved the Rules/Regulations for the B.A. LL.B. (Hons.) 5 years Integrated Course as finalized by the Committee constituted by the Vice-Chancellor in anticipation of the approval of the University bodies/Government of India and also approved the fee structure and number of seats for the said Course, including the sponsored seats, as recommended by the Committee constituted by the Vice-Chancellor. The said recommendations of the Syndicate dated 24.01.2004 were unanimously approved by the Senate on 28.03.2004. The then Registrar of the University vide letter dated 10.06.2006 addressed to the Secretary to the Government of India, Ministry of Human Resources Development (Department of Education) requested that sanction of the Government for the Regulations detailed therein may be

obtained and communicated. The B.Com. LL.B. (Hons.) 5 years Integrated Course was started in the UILS from the Session 2011-2012. The Syndicate vide its decision dated 04.11.2012 considered and approved the recommendation of the Faculty of Law dated 29.03.2012 that the Regulations/Rules which regulated admissions, promotions and migration to B.A. LL.B. (Hons.) 5 years Integrated Course be made applicable to B.Com LL.B. (Hon.) 5 years Integrated Course started from 2011-2012; therefore, the admission and promotion to the said course is being governed by the provisions of the Rules regulating admission and promotion to B.A./B.Com LL.B. (Hons.) 5 years Integrated Course (1-10 Semesters) as amended up-to-date by the University. It is stated that Department of Laws; UILS, Panjab University, Chandigarh; UILS at Hoshiarpur; UIL at Ludhiana and Law Department at Muktsar Sahib, ***all being approved departments of law of the University fall under the definition of “Centre of Legal Education”*** as provided in clause (iv), Rule 2, PART-IV, Rules of Legal Education-2008 which imparts instruction in a course of study in law for enrolment as an advocate. Degree in law awarded by the Panjab University is recognized for enrolment as an advocate by the Bar Council of India under the said Rules.

It is submitted that all the law departments of the University including UILS and the Regional Centres of the University fall under the definition of clause (iv) of Rule 22 of the Rules of Legal Education-2008 i.e. “Centre of Legal Education.” These are not Colleges of Law, constituent Colleges under the recognized University. The academic affairs of the department of Law and UILS of the University and law department of the Regional Centres are being looked after by the Faculty of Laws established by the University. The “Faculty of Laws” consist of Department of Law and

University Institute of Legal Studies of the University. It squarely covers the requirement of Clause 16 of the said Schedule-III of 2008 Rules for having the Dean for Law Department. Dean (Law) for all intents and purposes holds Deanship of all the department of laws of the University. Presently, Professor Rajinder Kaur is the Dean (Law) for Faculty of Law. **The UILS is not an autonomous institution and is rather an approved department of law of the University.**

27. Respondent nos.7 and 8 have also filed their separate written statement, wherein almost similar stand as taken by respondent No.6, has been taken. However, in para No.10 of the preliminary submissions of the written statement filed by respondents No.7 and 8, the following stand has been taken :-

“10. That it is further stated that the Bar Council of India has framed the Rules known as Rules of Legal Studies, 2008 copy of which has already been annexed by the petitioner as Annexure P-2. Schedule 3 of the above Rule relates to Minimum Infrastructural facilities required in a centre of Legal Education for applying permission to run Law course with affiliation from an Indian University and clause 16 provides whole time Principal/Head/Dean. The said clause reads as under :

“16. Whole time Principal/Head/Dean : There shall be a Principal for each constituent or affiliated Centre of Legal Education of a University and a Dean for the University Department, who shall have minimum prescribed qualification in law as prescribed by the UGC for respective position like Principal of a Centre of Legal Education or a

Professor of Law to hold deanship, as the case may be.”

From the reading of the above Rule, it is stated that in the University, there is a Dean of Department of Laws and the requirement of Rule 16 though not applicable strictly is met with the appointment of the Dean of Law and presently Faculty of Law in its meeting held on 20.02.2023 elected Prof. Rajinder Kaur as Dean, Faculty of Law for the term from February 1, 2023 to January 31, 2024 under Regulation 6.3, Panjab University Calendar Vol. I, 2022.”

On the basis of their respective submissions, respondents No.6 to 8 have also prayed for dismissal of writ petition.

28. I have heard learned counsel for respective parties and perused the paper-book with their able assistance.

29. From the above-referred submissions/stand of the respective parties, in my considered view, the following issues would arise for consideration by this Court; namely,

- i. *Whether University Institute of Legal Studies (UILS) of Panjab University is a Centre of Legal Education in terms of Rule 2(iv) of Rules of Legal Education, 2008 ?*
- ii. *Whether the Rules of Legal Education, 2008 are applicable to UILS?*
- iii. *Whether University Institute of Legal Studies (UILS) of Panjab University is required to have a whole time Principal/Head, in terms of Rules of Legal Education, 2008, more specifically Rule 16 read with Clause 16 of Schedule III thereof read with 2018 Regulations and Rules of Headship ?*

30. Before dealing with the afore-said issues, it would be apposite to state here that the Bar Council of India is constituted under Section 4 of

the 1961 Act and is a body corporate having perpetual succession and a common seal. The functions assigned to the Bar Council of India are enumerated in Section 7 of the Act wherein Section 7(1)(h) of the 1961 Act, reads as follows:-

"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."

31. Further, Section 49 of the 1961 Act confers power on the Bar Council of India to make rules for discharging its function and Section 49(1)(d) reads as follows:-

"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;"

It is abundantly clear therefore that the Bar Council of India can lay down standards of legal education to be observed by the Universities in India in consultation with the State Bar Councils.

32. The Universities in the country have to observe the standards of legal education prescribed by the Bar Council of India has been held in ***Bar Council of India v. Aparna Basu Mallick [1994(2) S.C.T. 72 : 1994 (2)***

SCC 102] as follows :-

"14... Section 49(1)(d) empowers the Bar Council of India to make rules which may prescribe the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose. If the acquisition of a degree in law is essential for being qualified to be admitted as an advocate on a State roll, it is obvious that the Bar Council of India must have the authority to prescribe the standards of legal education to be observed by Universities in the country."

33. The Bar Council of India retains adequate power to control the course of studies in law has been reiterated in ***Bar Council of India v. Dayanand College of Law and others [2007(1) S.C.T. 380 : (2007) 2 SCC 202]*** as follows :-

"11... 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...."

34. The Bar Council of India has framed the Rules of Legal Education, 2008. The events leading to the framing of the Rules of Legal Education, 2008 need to be referred to.

35. The Legal Education Committee constituted by the Bar Council of India as per provisions of Section 10(2)(b) of the 1961 Act, in its meeting held on 28.06.2002 to 30.06.2002 constituted a Sub-Committee to suggest

actions to be taken to improve the quality of legal education and especially the re-drafting of the Rules relating to the Standards of Legal Education. Thereafter, in its meeting held on 07.11.2003, the revision of the Bar Council of India Rules in Part IV was proposed by referring the matter to the Rule making Committee. On 04.05.2007, the Legal Education Committee after finalizing the draft Rules, invited the comments of all the Universities and State Bar Councils. In its subsequent meeting held on 01.02.2008, the Legal Education Committee referred to the comments and suggestions received from about 38 Universities/Law Colleges and three State Bar Councils. The Bar Council of India in its meeting held on 12.09.2008 and 14.09.2008 passed resolution no.110 of 2008 accepting the Rules as revised by its Legal Education Committee. The said revised Rules were thereafter implemented from the academic year 2009-10.

36. The aforesaid indicates the various steps undertaken by the Bar Council of India before it resolved to bring into force the 2008, Rules. It cannot be ignored that the exercise of framing the Rules of 2008 was preceded by a detailed exercise being undertaken by a body of experts which was the Legal Education Committee.

37. It would be apposite to refer to certain relevant provisions of the 2008 Rules. Rule 1(c) prescribes that the 2008 Rules would replace all previous rules, directives, notifications and resolutions relating to the matters covered under the 2008 Rules.

Rule 2(iv) indicates "*Centres of Legal Education*" to mean approved colleges of law, departments of law of Universities and affiliated colleges or schools of law of recognized Universities so approved.

Chapter II of the 2008 Rules lays down the Standards of Professional Legal Education. Rule 3 refers to recognized Universities which include approved affiliated Centres of Legal Education. A State Bar Council is required to ensure that the applicants passing out from such recognized Universities and approved affiliated law Centre of legal education are enrolled. Rule 8 prescribes the standard of law courses while Rule 11 prescribes minimum standard infrastructure to be stipulated by the Bar Council of India.

Chapter III of the 2008 Rules lays down steps for inspection, recognition and accreditation. Under Rule 14 no Centre of legal education is permitted to admit any student and impart instructions in a course of study of law unless the same has been approved by the Bar Council of India after inspection of the University or Centres of Legal Education concerned. Rule 19 prescribes types of inspection by the Inspection Committee of the Bar Council of India. Rule 26 refers to approval granted by the Bar Council of India on the recommendation of the Legal Education Committee. Such approval may either be temporary approval for a period of not more than three years to a newly proposed institution or regular approval for a period not more than five years when the institution fulfills all standard norms.

Chapter VI of the 2008 Rules makes various miscellaneous provisions. Rule 42 requires all approved Centres of Legal Education of the Universities whose degrees are approved for enrolment to submit to the respective University with a copy to the Bar Council of India an annual return in the prescribed form. Under Rule 44 the Bar Council of India is required to notify on its website the names of Universities whose degrees in

law are recognized alongwith list of approved Centres of Legal Education.

Rule 45 giving over-riding effect to the Rules of 2008 reads thus:-

"45. Over-riding effect.

Any resolution passed earlier by Bar Council of India / Legal Education Committee inconsistent with these rules shall not bind the Bar Council of India and all other bodies constituted in pursuance of the Advocates Act, 1961, after these rules come into force."

Rule 46 which is the Savings provision reads thus:-

"46. Savings.

Any action, decision or direction taken or directed by the Bar Council of India under any Rule or Regulation in force at any time earlier than these Rules coming into force, shall be valid, binding on the institutions as the case may be and remain in enforce notwithstanding anything contained in these Rules."

38. On a complete reading of the 1961 Act and especially the provisions of Sections 7, 24 with Section 49 of the Act of 1961, it becomes clear that it is the function of the Bar Council of India under Section 7(1)(h) of the 1961 Act, to promote legal education and lay down standards of such education in consultation with Universities in India imparting such education as well as the State Bar Councils. It is also its function to recognize Universities whose degree in law is a qualification for enrolment as an Advocate. The Bar Council of India is also required to inspect Universities for that purpose or cause the State Bar Councils to visit and inspect Universities in that regard. It is also apparent that a person who seeks to be admitted as an Advocate on a State roll is required to fulfill various

conditions including obtaining a degree in Law which is recognized by the Bar Council of India for the purposes of the 1961 Act.

39. Coming to the case in hand, as far as issue no (i) is concerned i.e whether University Institute of Legal Studies (UILS) of Panjab University is a “Centre of Legal Education” in terms of Rule 2(iv) of Rules of Legal Education, 2008; at the cost of repetition, it would be gainful to refer to Rule 2(iv) of 2008 Rules, which reads as under:-

“2(iv) Centres of Legal Education” means

(a) *All approved Departments of Law of Universities, Colleges of Law, Constituent Colleges under recognized Universities and affiliated Colleges or Schools of law of recognized Universities so approved.*

Provided that a Department or College or Institution conducting correspondence courses through distance education shall not be included.

(b) *National Law Universities constituted and established by statutes of the Union or States and mandated to start and run Law courses.”*

Petitioner claims that University Institute of Legal Studies (UILS) of Panjab University is a “Centre of Legal Education”, whereas the stand of respondent-University as well as respondents no. 6 to 8 is that University Institute of Legal Studies (UILS) of Panjab University is an **“approved Department of law”**. Even going by the stand taken by the respondents herein that University Institute of Legal Studies (UILS) of Panjab University is an “approved Department of law”, there is hardly any dispute left as “all approved Departments of Law” of University would fall

within the scope and ambit of Rule 2 (iv) of 2008 Rules. Therefore, it is held that University Institute of Legal Studies (UILS) of Panjab University is a “Centre of Legal Education” in terms of Rule 2 (iv) of 2008 Rules.

40. Coming to issue (ii) as to whether the Rules of Legal Education, 2008 are applicable to UILS (respondent No. 4); the stand of petitioner is that University Institute of Legal Studies (UILS) of Panjab University is a Centre of legal education, therefore 2008 Rules are fully applicable to the same.

Per contra, the stand of respondent No.1-University and respondent No.4-Institute is that Clause 16 of Schedule III of the 2008 Rules applies to two Institutions distinctly viz., there shall be a “PRINCIPAL” for each constituent or affiliated Centre of legal Education i.e. Constituent or affiliated College and a Dean for the “University department”, who shall have minimum prescribed qualification in law as prescribed by the UGC for respective position like Principal of a Centre of Legal Education or a Professor of Law to hold Deanship, as the case may be. Therefore, the provisions of Rule 16 of the Rules of Legal Education, 2008 and Clause 16 of Schedule III thereof to the extent that there shall be a Principal for each Constituent or affiliated Centre of Legal Education of a University are not applicable to the facts of the instant case. It is contended that the provisions of Clause 16 to the effect that there shall be a Dean for the University Department are applicable to the case in hand, however none of the provisions of Clause 16 of Schedule III of Rules of Legal Education-2008 apply for the post of Director of UILS.

Respondents No. 6 to 8 have also taken a similar stand that Rules of Legal Education, 2008 are not strictly applicable to respondent

No.4-Institute.

On the other hand, the Bar Council of India has taken a stand that under Schedule III of the 2008 Rules, the minimum infrastructural facilities, which are required for running the Centre of Legal Education such as the respondent-Institute, have been laid down by the Bar Council of India. Under the provisions for academic infrastructure, Clause 16 specifically provides that an institute/center of legal education in a University is required both a whole time Principal/Head/Dean, which shall have the minimum prescribed qualifications in law as prescribed by the UGC with respect to posts in question.

I have considered the aforesaid stand of the respective parties; however, I do not find any force in the same stand taken by respondents No.1 to 4 and respondents No.6 to 8. In my considered view, the applicability of 2008 Rules upon University Institute of Legal Studies (UILS) of Panjab University being a “*Centre of Legal Education*” is not as per the choice and / or on the basis of self serving interpretation of 2008 Rules by respondents No. 1 to 4 and for that matter by respondents No. 6 to 8 and that too selectively. The Bar Council of India, being the Governing body, in cases of institutions imparting Legal Education in India, has framed/promulgated 2008 Rules which was preceded by a detailed exercise undertaken by body of experts. The 2008 Rules have been governing the field ever since its enforcement and it has already been pointed out in the foregoing paras that the Gazette Rules (2008 Rules) were circulated by the Bar Council of India to the Universities before they were finally implemented from the Academic Year 2009-2010. Concededly, the University Institute of Legal Studies (UILS) was established in the year

2004 and the 2008 Rules were enforced subsequently i.e. from the Academic Year 2009-2010. Therefore, Panjab University as well as respondent No.4-Institute were very well aware of their faculty set-up and also the courses undertaken at UILS. Had there been any objection to the provisions contained in 2008 Rules, more specifically the provisions providing for a whole time Principal/Head of a Centre of Legal Education, then objection could have been raised. There is no dispute that Rule 45 of 2008 Rules gives an overriding effect to them. Neither respondents No.1 to 4 nor respondents No.6 to 8 had referred to any material to suggest that any challenge has been made to the said 2008 Rules. In such eventuality, when 2008 Rules operates in the field then the same have to be given effect with full force and would fully apply on respondent No.4-Institute, which undeniably has affiliation from respondent No.5-Bar Council of India.

Furthermore, within the framework of 2008 Rules, more specifically Rule 11 read with Schedule III of 2008 Rules, the respondent No.1-University and respondent No.4-Institute, in order to seek extension of recognition/approval from Bar Council of India (respondent No.5) had submitted an affidavit dated 13.03.2020(Annexure P-15) to the Bar Council of India, specifically stating as under:-

- 1. The Institution has been given extension of approval of affiliation w.e.f. Academic Session 2017-18 till the academic session 2019-20 (for three years).*
- 2. The Institution fulfils all affiliation conditions under the Affiliation Rules of the University;*
- 3. The Institution is a constituent department of Panjab University, Chandigarh which is statutory body under Panjab University Act, 1947.*

4. The Institution has the Capital Fund as on date amounting to Rupees 8 Crores approximately.

5. The Institution has already appointed a qualified Head of the Institution.

6. The Institution possesses physical infrastructure under freehold to the minimum required standard of the Education Rules of the Bar Council of India.

7. The Institution appointed/initiated the processes of appointment of required number of faculty and other administrative staff and the required number satisfy the minimum requirement as per the prescription of the Bar Council of India.

8. The Institution fulfils all requirements for affiliation of the University and also all conditions for approval of the affiliation.

9. It is declared and asserted that the Institution fulfils all necessary conditions/promises to meet up deficiencies, if indicated and would be ready to continue course/courses from the Academic year 2020-21.

10. The Institution is managed, monitored and run by Panjab University as per the Panjab University Norms and norms of the Bar Council of India.

11. The Institution undertakes to scrupulously adhere to the standard of the legal education as prescribed under the Education Rules of the Bar Council of India and as may be prescribed or amended from time to time

A bare perusal of the contents of the above extracted affidavit dated 13.03.2020 (Annexure P-15) submitted by respondent No.1-University and respondent No.4-Institute to the Bar Council of India, invariably indicates that the University Institute of Legal Studies (UILS) of Panjab University has clearly admitted the applicability of 2008 Rules and have

rather undertaken to scrupulously adhere to the standard of the legal education as prescribed under the Education Rules (i.e. 2008 Rules) of the Bar Council of India and as may be prescribed or amended from time to time. Such affirmation by respondent No.1-University and respondent No.4-Institute is not only for seeking affiliation / approval from Bar Council of India but also towards future compliance(s) with the provisions of 2008 Rules, moreso when the affiliation / approval from Bar Council of India is for specified period and is required to be obtained regularly. Moreover, the said affirmation and undertaking given by respondent No.1-University and respondent No.4-Institute not only binds them but also the faculty members, staff etc. Therefore, keeping in view the stand of Bar Council of India and the observations made here-in-above, there is no manner of doubt that Rules of Legal Education, 2008 are fully applicable to University Institute of Legal Studies (UILS).

41. Now coming to issue no. (iii) as to whether University Institute of Legal Studies (UILS) of Panjab University is required to have a whole time Principal/Head, in terms of Rules of Legal Education, 2008, more specifically Rule 16 read with Clause 16 of Schedule III thereof read with 2018 Regulations and Rules of Headship; it is the stand of the petitioner that in terms of above-referred provisions; Head of the respondent No.4-Institute (i.e. the Director), can only be appointed from amongst the faculty members, who fulfill the minimum prescribed qualification in the field of Law. Reliance is placed upon the decision of the Hon'ble Supreme Court of India in '*Bar Council of India Versus Board of Management, Dayanand College of Law*' 2007(2) SCC 202.

On the other hand, the stand of respondent No.1-University and respondent No.4-Institute is that there is no sanctioned regular post of Director in the Department (UILS) and the designation assigned to the appointee is only honorary. It is stated that the provisions of Clause 16 of Schedule III of 2008 Rules to the effect that there shall be a Dean for the University Department are applicable to the case in hand, however, none of the provisions of Clause 16 of Schedule III of Rules of Legal Education-2008 apply for the post of Director of UILS. It is also the stand of respondents no. 1 to 4 and respondents no. 6 to 8 that UILS imparts B.A./B.Com. LL.B (Hons.) five years integrated Course and the University offers total subjects in liberal discipline in integrated stream as per the scheme laid under the provisions of Rule 3 and 6, Schedule II of the Rules-2008. It is stated that the faculty of UILS consists of Professors/Associate Professors/Assistant Professors in Law and Social Sciences i.e. Political Science, Economics, Sociology, English, History etc. and all the teachers are to be appointed as per the provisions of UGC Regulations issued from time to time and adopted by the University. It is further stated that there is one common list for the teachers imparting instructions in law subjects and other social science subjects on the basis of their date of joining (direct recruitment and promotion), therefore, each and every teacher of UILS is entitled to be appointed as Director of UILS by rotation as per the provisions of *Chapter LII, Vol. III, P.U. Calendar 2019, Page 714* pertaining to '*Rotation of Headship-Teaching Departments.*' It is contended that none of the teachers is to be denied equality before law and they are entitled to equal protection of the laws and equal opportunity to be appointed as Director of UILS, irrespective of the fact that he/she imparts instruction in law subjects

and other social science subjects. It is further contended that the decision of the Hon'ble Supreme Court of India in '**Bar Council of India Versus Board of Management, Dayanand College of Law**' 2007(2) SCC 202; is not applicable to the instant case.

I have considered the afore-stated rival contentions of the respective parties and have also gone through the decision of the Hon'ble Supreme Court of India in the case of **Dayanand College of Law** (*supra*). In my considered view, the judgment rendered in the case of **Dayanand College of Law** (*supra*) has cleared the air as far as fulfillment of requirements / eligibility laid down under the Rules of Legal Education framed by Bar Council of India is concerned as it was held therein that the Rules framed by the Bar Council of India would prevail viz-a-viz the regulation of the University. Hon'ble the Apex Court in the case of **Dayanand College of Law** (*supra*) has held as under: -

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;"

7(1)(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;"

The duty of admission and enrolment of Advocates is entrusted to the State Bar Council except in the case of Supreme Court advocates which is with the Bar Council of India. After 12.3.1967, a person may be admitted as an advocate on a State roll only if he has obtained a degree in law from a University recognised by the Bar Council of India. Section 24, to the extent it is relevant here, reads :

"24. Persons who may be admitted as advocates on a State roll. - (1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfills the following conditions, namely :-

(a)

(b)

(c) he has obtained a degree in law -

(i) before the 12th day of March, 1967 from any University in the territory of India; or

(ii) before the 15th of August, 1947, from any University in any area which was comprised before that date within India as defined by the Government of India Act, 1935; or

(iii) after the 12th day of March, 1967, save as provided in sub-clause (iiia) after undergoing a three years course of study in law from any

University in India which is recognised for the purposes of this Act by the Bar Council of India; or

(iiia) after undergoing a course of study in law, the duration of which is not less than two academic years commencing from the academic year 1967-68 or any earlier academic year from any University in India which is recognised for the purposes of this Act by the Bar Council of India; or

(iv) in any other case, from any University outside the territory of India, if the degree is recognised for the purposes of this Act by the Bar Council of India] or;

he is a barrister and is called to the Bar on or before the 31st day of December, 1976 or has passed the articulated clerks" examination or any other examination specified by the High Court at Bombay or Calcutta for enrolment as an attorney of that High Court; or has obtained such other foreign qualification in law as is recognised by the Bar Council of India for the purpose of admission as an advocate under this Act;"

Section 49 confers the power to make rules for discharging the functions of the Bar Council of India. Relevant topics for our purposes are set down hereunder :

"49(1)(af) the minimum qualifications required for admission to a course of degree in law in any recognised University;"

and

"49(1)(d). the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose;"

8. *The Bar Council of India Rules are framed by the Bar Council of India in exercise of its rule making power. Part IV thereof deals with legal education, the duration of it, the syllabi etc. Section A deals with five-year law course and Section B deals with three-year law course. Under Section A Rule 2, a degree in law obtained from a University shall not be recognised for the purpose of enrolment as an advocate under the Advocates Act unless the conditions laid down therein are fulfilled. Only then a student coming out of that University could get enrolled as an advocate. Provision has also been made regarding teachers of law. Rule 12 reads :*

"12. Full-time teachers of law including the Principal of the College shall ordinarily be holders of a Master's degree in law and where the holders of Master's degree in law are not available, persons with teaching experience for a minimum period of 10 years in law may be considered. Part-time teachers other than one with LL.M. degree shall have a minimum practice of five years at the Bar."

9. *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.

10. The first task of a court confronted with a set of parallel provisions relating to the appointment of a principal of a law college like the one in the amended provision of the Statute under the University Act and the Rules made by the Bar Council of India which could ultimately refuse to admit a graduate of law coming out of the University to enrolment as an advocate, which alone would entitle him to practice, is to see whether the provisions could not be reconciled or harmoniously construed so as to achieve the object of both the enactments. Prior to 13.1.1995, there was no conflict between Statute 11.14 and Rule 12 of the Rules of the Bar Council. In 1995, in the University Statutes, the requirement of the Principal having to be the holder of a doctorate in one of the subjects taught in the College, was done away with. Obviously, such a provision could not be understood as controlling fully professional education like that in Medicine, Engineering or Law. No doubt, the University has not made a distinction in that regard in this context. But obviously, it does not appeal to common sense to say that an engineer could be appointed the Principal of a Medical College or a Great Physician could be appointed as the Principal

of an Engineering College. Same is the position regarding the appointment of a doctorate in Science or a doctorate in Philosophy as the Principal of a law college.

11. The aim of most of the students who enter the law college, is to get enrolled as Advocates and practice law in the country. To do that, they have necessarily to have a degree from a University that is recognised by the Bar Council of India. Therefore, the court, in a situation like the present one, has to ask itself whether it could not harmoniously construe the relevant provisions and reach a conclusion consistent with the main aim of seeking or imparting legal education. So approached, nothing stands in the way of the court coming to the conclusion that though under the relevant Statute of the University as amended, theoretically, it may be possible to appoint a Doctor of Philosophy or a Doctor of Science as the Principal of a Law College, taking into account the requirements of the Advocates Act, the Rules of the Bar Council of India and the main purpose of legal education, the Court would be justified in holding that as regards the post of the Principal of a Law College, it would be necessary for the proposed incumbent also to satisfy the requirements of the Rules of the Bar Council of India. Such a harmonious understanding of the position recognising the realities of the situation, would justify the conclusion that a Doctorate holder in any of the law subjects could alone be appointed as the Principal of a Law College. The High

Court, in our view, made an error in not trying to reconcile the relevant provisions and in not making an attempt to harmoniously construe the relevant provisions so as to give efficacy to all of them. A harmonious understanding could lead to the position that the Principal of a Law College has to be appointed after a process of selection by the body constituted in that behalf, under the University Act, but while nominating from the list prepared, and while appointing him, it must be borne in mind that he should fulfill the requirements of the Rules of the Bar Council of India framed under the Advocates Act and it be ensured that he holds a Doctorate in any one of the branches of law taught in the law college. We do not see anything in the University Act or the Statutes framed thereunder, which stands in the way of the adopting of such a course. Therefore, when a request is made for selection of a Principal of a law college, the University and the Selection Committee has to ensure that applications are invited from those who are qualified to be principals of a law college in terms of the Rules of the Bar Council and from the list prepared, a person possessing the requisite qualification, is nominated and appointed as the Principal of a law college.

*12. It is clear from the decision of the Constitution Bench in **O.N. Mohindroo v. The Bar Council of Delhi & Ors.** (supra) 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 concerned University has been left to a Higher Education Services Commission and respondent No. 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 in the Recommending Authority or in the State Government 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 to 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 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.

13. 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 No. 5 as the Principal of the Dayanand Law College.

XXX

XXX

XXX

16. We find that consistent with the Advocates Act and the rules of the Bar Council of India, respondent No. 5 could not have been appointed as the Principal of a Law College, however, eminent he might be as a philosopher, friend and guide to the students and his competence to teach Ethics could be recognized.

A perusal of the afore-said judgment would manifest that notwithstanding the procedure to be followed under the University Act, the adherence to the requirements of the Advocates Act and the rules of the Bar Council of India is also to be ensured when concerned with the appointment of a Principal of a Law College.

42. In the instant case, I have considered the stand of respondents No. 1 to 4 and more specifically the stand of respondents No. 6 to 8 that there is one common list for the teachers imparting instructions in law subjects and other social science subjects on the basis of their date of joining (direct recruitment and promotion), therefore, each and every teacher of

UILS is entitled to be appointed as Director of UILS by rotation as per the

provisions of *Chapter LII, Vol. III, P.U. Calendar 2019, Page 714* pertaining to '*Rotation of Headship-Teaching Departments*' and none of the teachers is to be denied equality before law; thus they are entitled to be appointed as Director of UILS irrespective of the fact that he/she imparts instruction in law subjects and other social science subjects.

Even though at first blush, the aforesaid argument seems to be attractive but it does not detain this Court for too long to brush aside the same as the issue involved in the present case is not to test the impugned action based on the principles of service jurisprudence but to test the impugned action towards the compliance of the norms of affiliation from the Bar Council of India, being the governing body.

Keeping in view the observations made by Hon'ble Supreme Court in the case of *Dayanand College of Law (supra)* and upon harmonious construction of the provisions contained in 2008 Rules read with the 2018 Regulations and also the Rules of Headship, it is observed that provisions pertaining to '*Rotation of Headship-Teaching Departments*' are applicable to all departments of Panjab University, however as regards its applicability in respect of UILS, it would be necessary for the proposed incumbent also to satisfy the requirements of the 2008 Rules framed by the Bar Council of India read with 2018 UGC Regulations. Therefore, when concerned with the appointment of a Principal / Head of a Centre of Legal Education, there cannot be any difficulty either with the Panjab University or with the respondent No. 4 – Institute recognizing the fact that a person duly qualified in law is required to be the Principal / Head of a Centre of Legal Education in the interests of the students coming out of such Centre in the light of the provisions of the Advocates' Act, 1961 and the rules framed

by the Bar Council of India governing enrolment of Advocates and their practice, so that the students coming out from their Centre of Legal Education are not put to any difficulty and their career as professionals is in no way jeopardized by their actions in appointing a Principal / Head, who does not hold the requisite eligibility / qualification in terms of 2008 Rules read with 2018 Regulations. Therefore, Panjab University and respondent No.4-Institute (UILS) are expected to comply with the requirement set down by the Bar Council of India in 2008 Rules and 2018 Regulations as regards appointment of Principal/Head of a Centre of Legal Education, is concerned.

Non-compliance with the Rules of Legal Education, 2008, shall result into infringement of the norms of affiliation. The respondent No.1-University and respondent No.4-Institute, in order to seek extension of recognition/approval from Bar Council of India (respondent No.5) had submitted an affidavit dated 13.03.2020(Annexure P-15) to the Bar Council of India, wherein it has been categorically stated that the Institution has already appointed a qualified Head of the Institution. Thus, once a categorical declaration was given by the respondent No.1-University as well as respondent No.4-Institute, then it does not lie in their mouth to turn around and say that Rule 16 read with Clause 16 of Schedule III of 2008 Rules is not applicable to the instant case or that the said provision is applicable only in respect of Dean and not in respect of Principal or Head (Director in the instant case) of UILS.

43. I also do not find any substance in the submission/stand of respondents No.1 to 4 that the Director of respondent No.4-Institute is only an honorary designation; especially in the light of Rule 2.7 of the Rules of

Headship, which provides that the Head of the Department has the following powers and functions, which reads as under :-

“2.7 The Chairperson / Head of a department shall have the following powers and functions: -

- (i) To provide academic leadership to the Department;*
- (ii) To supervise the overall functioning of the Department ;*
- (iii) To co-ordinate and guide the teaching, research and administrative work of the Department;*
- (iv) To implement the decisions of the Committees specified in Rule 3.1;*
- (v) To exercise financial powers in pursuance of the recommendations of the Committees specified in Rule 3.1 subject to such rules as may be prescribed in this regard from time to time;*
- (vi) To recommend to the Joint Research Board, panel of examiners for evaluating Ph.D. thesis in consultation with supervisor/s and*
- (vii) To perform such other functions as may be assigned to him by the Syndicate and the Vice-Chancellor for specific purposes.”*

A bare perusal of the above extracted Rule 2.7 of the Rules of Headship, would clearly indicate that the Director of respondent No.4-Institute, being the Head of the Institute, is not a mere honorary designation as he/she is required to perform various functions and to exercise such powers which in its very nature are aimed towards providing academic leadership to the Department, to co-ordinate teaching, research and administrative work of the department, to exercise financial powers etc.

44. Considering the totality of circumstances, in the instant case, the Principal/Head of respondent No.4-Institute (referred to as ‘Director’)

has to be a person, who has minimum prescribed qualification in Law as prescribed by the UGC, as envisaged under 2008 Rules, more specifically Rule 16(iv) read with Clause 16 of Schedule III of 2008 Rules. Concededly, such qualification is not there with respondent No.6 and for that matter also with respondents No.7 and 8.

45. Consequently, the impugned order dated 31.05.2023 (Annexure P-13) appointing respondent No.6 as Director of University Institute of Legal Studies, Panjab University (respondent No.4) is unsustainable in the eyes of law and the same is accordingly set aside. Accordingly, the present petition is partly allowed to the above extent, with a further direction to respondents No.1 to 4 to initiate and complete the process of appointing the Director/Head of respondent No.4-Institute, in compliance with norms of affiliation, keeping in view the observations made here-in-above, within a period of six weeks from the date of receipt / presentation of certified copy of this order.

46. Disposed of accordingly.

47. All pending applications (if any) shall stand closed.

November 22, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No