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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12283/2024 & CM APPL. 53568/2024**

MAAHI NEIL JAIPAL

.....Petitioner

Through: Mr. Sumit Suri, Ms. Priti Agarwal
and Mr. Tara Shanker Jha, Advs.

versus

FACULTY OF LAW, UNIVERSITY OF DELHI

.....Respondent

Through: Ms. Gauri Gabardham, Adv for R-1
Mr. Preet Pal Singh, MR. Madhukan
Pandey and Mr. Unmukt Bhardwaj,
Advs. for BCI
Mr. Mohinder J.S. Rupal, Mr. Hardik
Rupal and Mr. Ashrwaya Malhotra,
Advs.

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+ **W.P.(C) 12607/2024 & CM APPL. 52411/2024**

MAAHI NEIL JAIPAL

.....Petitioner

Through: Mr. Sumit Suri, Ms. Priti Agarwal
and Mr. Tara Shanker Jha, Advs.

versus

UNIVERSITY OF DELHI & ORS.

.....Respondent

Through: Ms. Gauri Gabardham, Adv for R-1
Mr. Preet Pal Singh, MR. Madhukan
Pandey and Mr. Unmukt Bhardwaj,
Advs. for BCI
Mr. Mohinder J.S. Rupal, Mr. Hardik
Rupal and Mr. Ashrwaya Malhotra,
Advs.
Mr. Arun Mittal, Mr. Shaurya
Aggarwal, Advs. for R-3



CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

30.09.2024

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1. The petitioner in the instant writ petitions prays for direction to respondent no.1-University of Delhi [**“respondent-University”**] to grant him admission in B.A. LL.B (Hons.) 5-year integrated law course under the supernumerary quota of Foreign Nationals, as provided in the Bulletin of Information [**“the bulletin”**] released by the respondent-University on 25.04.2024 for the Academic Year 2024-25.
2. Besides the aforesaid, the petitioner also seeks to challenge the amendment made by the respondent-University on 18.08.2024 to the admission guidelines of 2024-25 as well as the letter dated 20.05.2024, issued by respondent No.2-Bar Council of India [**“BCI”**] to all the Vice-Chancellors of the Universities, including the respondent-University.
3. Learned counsel appearing for the petitioner submits that in pursuance of the bulletin issued by the respondent-University which prescribes for admission against the aforesaid quota to the extent of 10% in 5-year integrated law course, the petitioner duly applied for the same with a *bonafide* desire of securing admission. He, however, submits that before the admission could be finalized, the respondent-University abruptly came with an amendment on 18.08.2024, withholding the admission process under the said quota, presumably on the basis of a letter dated 20.05.2024 issued by the BCI.
4. Learned counsel for the petitioner contends that the BCI does not wield any authority to issue the aforesaid letter and rather, it is the



University Grants Commission [“UGC”], which exercises control in running the field of legal education. He further submits that in the present case, once the respondent-University has issued the bulletin prescribing a particular quota, the same cannot be abruptly discontinued or recalled in an arbitrary manner. According to him, the bulletin has a binding effect on all concerned and since the respondent-University has already accepted applications for admission in the said quota, it cannot be allowed to discontinue the same in the midst of the admission process.

5. Learned counsel further highlights that the petitioner had earlier approached this Court by way of a writ petition being W.P. (C) 13022/2023 seeking admission in the same category, however, in the absence of any provision, the admission to the petitioner in the concerned academic year could not be granted. He specifically emphasizes that the decision dated 29.11.2023 was challenged in LPA 797/2023, wherein, the respondent-University had taken an unequivocal stand that the provision for admission against the supernumerary quota for Foreign Nationals shall be looked into and accordingly, the decision to implement the same was taken by the respondent-University from this academic year. He asserts that in pursuance of the undertaking before the Division Bench of this Court in the aforesaid LPA, the respondent-University issued the bulletin and if at all, there was any requirement of prior consultation with the BCI, the same ought to have been done earlier.

6. Learned counsel, therefore, submits that the decision taken by the respondent-University to amend the admission guidelines and also the decision of the BCI *vide* letter dated 20.05.2024, are unsustainable and the same deserve to be set aside. While placing reliance on the decision passed



by the Division Bench of the High Court of Punjab and Haryana in the case of *Tarveshinder Singh v. Panjab University*¹, he contends that the Division Bench in that case directed the respondent therein to be bound by the offer made in the prospectus and it was further highlighted that if there was any requirement of prior clearance from BCI, the same ought to have been resorted to before issuing the prospectus. He specifically places reliance on paragraph no.8 of the said decision to submit that the facts of the present case are also similar to the case of *Tarveshinder*.

7. He also places reliance on the decision of the Supreme Court in the case of *O.N. Mohindroo v. Bar Council of Delhi*², to contend that the legal education and legal practice are two different things. According to him, so far as the legal practice is concerned, the same is governed by the Advocates Act, 1961, however, the norms of legal education is set out by the UGC. He then also draws sustenance from the decision in the cases of *Bar Council of India v. Board of Management, Dayanand College of Law*³ and *Bar Council of India v. Bonnie FOI Law College*⁴ to substantiate his arguments.

8. *Per contra*, learned counsel who appears for the BCI, opposes the aforesaid submissions and he submits that the letter dated 20.05.2024 is not a fresh decision, rather, it is only a reiteration of the correct legal position surrounding the controversy at hand. He, therefore, submits that the same should not be construed to create an impression that the BCI abruptly

¹ 2019 SCC Online P&H 7578.

² 1968 SCC Online SC 3.

³ (2007) 2 SCC 202.

⁴ (2023) 7 SCC 756.



discontinued any of the existing quota. He further asserts that the BCI is well within its authority to prescribe the intake capacity of a particular college. According to him, the decisions relied upon by the learned counsel have no application in the case at hand and the submissions of the petitioner are completely ill-founded.

9. He further submits that legal education is completely governed by the BCI in the capacity of being the apex regulatory authority in setting the standards of legal education in India and even the UGC, at no point of time, has passed any mandatory direction to create any supernumerary quota. While taking this Court through the letter dated 30.09.2022 of UGC and while further drawing the attention of the Court to various guidelines, he submits that *firstly*, the guidelines issued by the UGC for admission in supernumerary seats of international students in undergraduate and postgraduate programmes in higher education institutions in India is not mandatory to be complied with by all concerned. *Secondly*, the said guidelines, more importantly guideline nos.2 and 7 have left it to the discretion of the concerned professional and technical institutes, which are governed by the respective statutory bodies, to adopt the said recommendation. He then takes this Court to the provision enshrined in Clause 18.3 of New Education Policy, 2020, to submit that even the said policy also recognises the role of apex regulatory bodies and therefore, the mandate of the same cannot be said to have been diluted.

10. Learned counsel further submits that the medical and legal education have been placed on a different pedestal and the necessary decisions with regard to curriculum, seats etc. are to be taken by the concerned apex regulatory body, which in the present case is the BCI. He also submits that



in the instant case, the BCI has clarified by way of its affidavit that at no point of time has it authorised any of the university or institute to grant admission against the supernumerary quota in the Foreign Nationals category. He further submits that if the respondent-University has issued the bulletin under any misconception, the BCI has nothing to say with the aforesaid aspect.

11. The respondent-University has also filed its counter-affidavit and has opposed the submissions made by the petitioner. The counter-affidavit filed by the respondent-University states that it has proceeded in accordance with the undertaking given in LPA No.797/2023 before the Division Bench of this Court and accordingly, the applications were invited. In the said counter-affidavit, it is also stated that while the applications were under the scrutiny, the respondent-University received letter dated 20.05.2024 and on the basis of the objection taken by the BCI, it was unable to proceed further with the supernumerary quota for admission under the 5-year integrated law course. Learned counsel, therefore, submits that in view of the position taken by the BCI, the respondent-University's hands are tied.

12. I have heard learned counsel for the parties and have also perused the record.

13. The entire case of the petitioner is based on the premise that upon issuance of the bulletin and on submission of the application of the petitioner, a right has been created in his favour and the same cannot be withered away without following the due process of law. The other submission of the petitioner is based on the letter dated 30.09.2022 of UGC (*Annexure-P11*), which, according to him, is fully applicable under the facts of the present case.



14. A perusal of the letter dated 30.09.2022 of the UGC would reflect that in guideline no.2, it requires creation of 25% supernumerary seats for international students, over and above the total sanctioned enrolment for undergraduate and post-graduate programmes. The said guideline further stipulates that the decision regarding 25% supernumerary seats has to be carried out by the concerned higher educational institutions as per specific guidelines/regulations issued by the regulatory bodies considering the infrastructure, faculty and other requirements. It is thus seen that a conjoint reading of guideline nos.2 and 7 again unambiguously reinforces the position that the supernumerary seats in professional and technical institutes shall be governed by the respective statutory bodies.

15. Essentially, it is safely discernible from a reading of the entire guidelines that the same nowhere stipulates that the UGC itself has attained the role of apex regulatory body. Rather, a bare glance through various conditions would manifest that the said guidelines envisage that the UGC requires the concerned educational institutions to duly adhere to the sanctions of the concerned regulatory body to provide for the aforesaid provision of supernumerary seats.

16. With respect to the argument raised by the learned counsel for the petitioner that the UGC is the sole authority to govern the field of legal education and therefore, the BCI is only confined to the post enrolment stage in the regulation of legal practice, the same also cannot be acceded to in view of the position explained by the Supreme Court in the case of **Bar Council of India v. Aparna Basu Mallick**⁵. In the said case, it was held that

⁵ (1994) 2 SCC 102



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 BCI must have the authority to prescribe the standards of legal education to be observed by the Universities across the country. The relevant portion of the said decision reads as under:-

“14. Now under Section 7, one of the functions of the Bar Council of India is to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect the Universities. This power of recognition of Universities is conferred where the degree of law of that University entitles the degreeholder for enrolment as an advocate. Under Section 24(1)(c)(iii) which is relevant for this purpose, a person shall be qualified to be admitted as an advocate on a State roll if he fulfils the conditions of having undergone a three year course of study in law from any University in India which is recognised by the Bar Council of India. Sub-section (3) of Section 24 is an exception clause to sub-section (1) as it begins with a non-obstante clause which entitles a person to be enrolled as an advocate under special rule made in that behalf. No such rule was relied upon as having been made under sub-section (3) of Section 24. 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. On a conjoint reading of these provisions of the Act with Rule 1(1)(c) in Part IV of the Rules which prescribe the standards for legal education and recognition of degrees in law as well as admission as advocates, it is difficult to understand how one can say that the said Rule is inconsistent with any of the provisions of the Act. What Rule 1(1)(c) requires is that the course of study in law must be completed by regular attendance at the requisite number of lectures, tutorials and moot courts in a college recognised by a University. As pointed out earlier, this Court in Baldev Raj Sharma case [1989 Supp (2) SCC 91] pointed out that there was a substantial difference between a course of studies pursued as a regular student and the course of studies pursued as a private candidate. The policy underlying the relevant provisions of the Rules is to lay emphasis on regular attendance of the law classes. It is, therefore, clear that a candidate desiring enrolment as an advocate must fulfil the conditions set out under the relevant clause of Section 24



*read with Rule 1(1)(c) of the Rules. In the present case since both the candidates admittedly did not pursue any regular course of study at any college recognised by the University by attending the law classes, lectures, tutorials and moot courts, they cannot be said to have complied with the requirements for enrolment as an advocate. In that view of the matter we think that the view taken by the Calcutta High Court in *Aparna Basu Mallick v. Bar Council of India* [AIR 1983 Cal 461] is erroneous.”*

17. Moreover, the decisions relied upon by the learned counsel for the petitioner nowhere suggest that the BCI is excluded from having any role in regulating the field of legal education.

18. Common base to the first submission with respect to the vested right claimed by the petitioner on account of the terms and conditions delineated in the bulletin concerned in the instant case, the respondent-University had admittedly, on the basis of its understanding of supernumerary quota, has issued the advertisement inviting admissions under the said quota. However, testing the aforesaid contention on the edifice of established jurisprudence would evince that an expectation of any individual to be treated in a certain manner does not precipitate into an indefeasible right in his/her favour, as it has been held by this Court in the decision of *Omansh Thakur v. Union of India*⁶. Reliance can also be placed upon the decision of the Supreme Court in the case of *Kerala State Beverages (M&M) Corporation Ltd. v. P.P. Suresh*⁷, wherein, it was held that an expectation entertained by a person may not be found to be legitimate due to the existence of some countervailing consideration of policy or law. It was further held that so long as the Government does not act in an arbitrary or in an unreasonable

⁶ 2023 SCC OnLine Del 4475.

⁷ (2019) 9 SCC 710.



manner, the change in policy does not call for interference by judicial review on the ground of a legitimate expectation of an individual or a group of individuals being defeated.

19. Admittedly, the intake capacity of the concerned University running law course will have to be decided by the apex regulatory body i.e., BCI in the present case. The respondent-University cannot admit the students on its own unless the intake capacity is approved by the BCI. Undeniably, when the BCI *vide* its communication dated 20.05.2024 has clarified the aforesaid position and reiterated that there does not exist any sanction for supernumerary seats, therefore, the respondent-University cannot breach the said mandatory provision which requires adherence to the directions of the BCI.

20. It is, thus, seen that even on the basis of issuance of the bulletin, the Court finds that no mandatory direction can be issued to the respondent-University, in defiance of the mandatory directions of BCI, to proceed with the admission in the supernumerary quota for Foreign Nationals. The same would be in violation of the extant regulations and it is well settled, as a rule of prudence, that the educational authorities cannot be directed to disobey the binding regulatory mechanisms which govern such institutions. It has been repeatedly held that there should be least judicial interference in academic matters, which require diligence of experts in respective fields. [See: ***Maharashtra State Board of Secondary and Higher Education v. Paritosh Bhupeshkumar Sheth***⁸].

21. In view of the aforesaid, the Court does not find any merit in the

⁸ (1984) 4SCC 27.



instant petition and the same stands dismissed alongwith the pending application.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 30, 2024/dpa/P