



2024:DHC:8237-DB



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

+ **LPA 1057/2024 & C.M.Nos.62249-62250/2024**

MAAHI NEIL JAIPALAppellant

Through: Mr.Sumit Suri with Ms.Priti Agarwal
and Ms.Raminder Kaur, Advocates.

versus

UNIVERSITY OF DELHI & ORS.Respondents

Through: Mr.Mohinder J.S.Rupal, Advocate for
University of Delhi.
Mr.Preet Pal Singh with Ms.Tanupree
Kaur, Ms.Akanksha Singh and
Mr.Madhukar Pandey, Advocates for
R-2/BCI.

+ **LPA 1058/2024 & C.M.No.62251/2024**

MAAHI NEIL JAIPALAppellant

Through: Mr.Sumit Suri with Ms.Priti Agarwal
and Ms.Raminder Kaur, Advocates.

versus

FACULTY OF LAW UNIVERSITY OF DELHIRespondents

Through: Mr.Mohinder J.S.Rupal, Advocate for
University of Delhi

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Date of Decision: 22nd October, 2024

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

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JUDGMENT

MANMOHAN, CJ : (ORAL)

1. Present letters patent appeals have been filed challenging the judgment dated 30th September, 2024 passed by the learned Single Judge of this Court in W.P.(C) 12607/2024 and W.P.(C) 12283/2024, whereby the writ petitions filed by the appellant, challenging the decision of respondent no.1/university to withhold admissions under supernumerary quota in the Foreign Student's Registry and letter dated 20th May, 2024 issued by respondent no.2/Bar Council of India (BCI) were dismissed on the ground that there does not exist any sanction for supernumerary seats and educational institutions cannot be directed to disobey the binding regulatory authority which govern such institutions.

2. Learned counsel for the appellant contends that as the respondent no.1/university published its bulletin in April 2024 inviting applications from foreign nationals, an indefeasible right got created in favour of the appellant because the contents of the bulletins or brochures have force of law and binding effect. He states that the university ought to have taken necessary approvals from BCI, University Grants Commission (UGC), etc, before issuing its bulletin.

3. Even otherwise, he contends that legal education is not entirely and exclusively governed by the BCI. He submits that Section 7 of the Advocates Act, 1961 (hereinafter referred to as the 'Act') prescribes the functions of BCI and contends that BCI governs standards of legal education and recognition of degree in law *only for the purpose of enrolment as advocate*.



4. He further contends that the provisions of the Act are in furtherance of regulating practice of law in Courts or before Tribunals and the powers of BCI are confined to the limited extent of indirectly regulating the legal studies of those students who wish to practice law. He submits that the Supreme Court has made a clear distinction between ‘*pursuing law*’ and ‘*practicing law*’ and held that one can pursue law without any need to fulfil the requirements of BCI.

5. He points out that the University Grants Commission Act, 1956 was enacted under Entry 66 of List I to make provision for the co-ordination and determination of standards in universities. He contends that it is the UGC which has the powers to regulate university education. He states that Section 4(2)(a) of Delhi University Act, 1922 stands independent of and co-exist with the right of BCI to recognise law degrees for the purpose of enrolment as advocate and BCI cannot affect the right of Delhi University in granting valid and effective degrees to those students who do not wish to enrol and practice law in future.

6. In support of his submissions, he relies upon the judgment of the Constitution Bench in ***O.N. Mohindroo vs. Bar Council of Delhi (1968) 2 SCR 709***, wherein it has been held as under:-

*“9. The object of the Act is thus to constitute one common Bar for the whole country and to provide machinery for its regulated functioning. Since the Act sets up one Bar, autonomous in its character, the Bar Councils set up thereunder have been entrusted with the power to regulate the working of the profession and to prescribe rules of professional conduct and etiquette, and the power to punish those who commit breach of such rules. The power of punishment is entrusted to the disciplinary committees ensuring a trial of an advocate by his peers. Sections 35, 36 and 37 lay down the procedure for trying complaints, punishment and an appeal to the Bar Council of India from the orders passed by the State Bar Councils. As an additional remedy Section 38 provides a further appeal to the Supreme Court. **Though the Act relates to the legal practitioners, in its pith and substance it is an enactment which concerns itself with the qualifications,***



enrolment, right to practise and discipline of the advocates. As provided by the Act once a person is enrolled by any one of the State Bar Councils, he becomes entitled to practise in all courts including the Supreme Court. As aforesaid, the Act creates one common Bar, all its members being of one class, namely, advocates. **Since all those who have been enrolled have a right to practise in the Supreme Court and the High Courts, the Act is a piece of legislation which deals with persons entitled to practice before the Supreme Court and the High Courts. Therefore, the Act must be held to fall within Entries 77 and 78 of List I.** As the power of legislation relating to those entitled to practise in the Supreme Court and the High Courts is carved out from the general power to legislate in relation to legal and other professions in Entry 26 of List III, it is an error to say, as the High Court did, that the Act is a composite legislation partly falling under Entries 77 and 78 of List I and partly under Entry 26 of List III.

(emphasis supplied)”

7. He also contends that the guidelines dated 29th July, 2021 issued by UGC, mandating that higher education institutions create up to 25% supernumerary seats for international students, have a binding effect on the universities, including respondent no.1. He contends that the impugned letter dated 20th May, 2024 issued by BCI amounts to overriding, overruling or vetoing the policy decision formulated by UGC, which cannot be permitted in accordance with law.

8. Having heard learned counsel for the Appellant, this Court is of the view that the submission of the appellant that the role of BCI in regulating legal education is limited to the purpose of enrolment as an advocate is untenable in law. Sections 7(h) and 7(i) of the Act are reproduced hereinbelow:-

“7. Functions of Bar Council of India.....

xxx xxx xxx

(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;

(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];



9. No doubt, the Supreme Court has made a distinction between ‘*pursuing law*’ and ‘*practicing law*’ but such distinction has not been applied in the context of the regulating powers of BCI. In fact, till now no Court has held that the BCI is not empowered to regulate legal education or that such power is limited.

10. Further, if the contention of the appellant that BCI regulates legal education only in furtherance of enrolment as an advocate and UGC regulates all other aspects of legal education is accepted, the same will lead to a legal and regulatory quagmire. There is no way to determine whether a student has enrolled in a course to be enrolled as an advocate or otherwise as the same will result into two different kinds of LLB degrees.

11. Further, even if choice is given to students at the time of admission, enforcement of such choice will be highly prejudicial to students who may opt to change their initial choice. The distinction on the basis of nationality for specific subjects/courses will not serve any purpose and will be difficult to enforce.

12. Moreover, the present appeal suffers from misreading of the UGC guidelines. The said guidelines categorically state 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.*” The guidelines also stipulate that “*supernumerary seats in professional and technical institutes shall be governed by the respective statutory bodies*”.

13. Consequently, a perusal of the guidelines reveals that the UGC itself has deferred the decision to provide supernumerary seats to the statutory



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regulatory body, which in this case is BCI.

14. Accordingly, the present appeals being bereft of merit are dismissed along with the applications.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

**OCTOBER 22, 2024
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