

IN THE HIGH COURT OF DELHI AT NEW DELHI

(CIVIL ORIGINAL JURISDICTION)

Writ Petition (Civil) No..... of 2014

In the Matter of Public Interest Litigation

VIJAY KUMAR CHAURASIA

...PETITIONER

VERSUS

BAR COUNCIL OF INDIA AND ANR

...RESPONDENTS

A WRIT PETITION IN PUBLIC INTEREST UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA HIGHLIGHTING THE ARBITRARY ACTION OF RESPONDENTS VIOLATING THE FUNDAMENTAL RIGHTS OF INNOCENT LAW GRADUATES GRADUATED IN THE YEAR OF 2014 FROM LAW CENTRES, FACULTY OF LAW, UNIVERSITY OF DELHI.

To,

THE HON'BLE CHIEF JUSTICE OF DELHI AND HIS COMPANION JUDGES OF THE HON'BLE HIGH COURT OF DELHI, AT NEW DELHI.

The Humble Petition of
the Petitioner above

MOST RESPECTFULLY SHOWETH:

- 1.** That the Petitioner is filing the instant writ petition in public interest. The Petitioner has no personal interest in this litigation and the petitioner is not

guided by self-gain or for gain of any other person/institution/body and there is no motive other than of public interest in filing this writ petition.

- 2.** That the Petitioner has based the instant writ petition from authentic information and documents made available through publicly available documents obtained from the websites of the Government.
- 3.** That the petition, if allowed, would benefit to all law students who took admission in Law Centre-I, Law Centre-II and Campus Law Centre of University of Delhi in the year 2011 and graduated in the year 2014. Such students are large in number and most of them are not in a position to come before this Hon'ble Court.
- 4.** That the affected parties by the order sought in the writ petition would be the Bar Council of India and Bar Council of States. To the best of the knowledge of the Petitioner, no other persons/bodies/institutions are likely to be affected by the orders sought in the writ petition.

5. That the Petitioner is an Assistant Professor, Faculty of Law, University of Delhi and is a respectable citizen of India. The Petitioner has the means to pay the costs, if any, imposed by this Hon'ble Court.

6. That the Bar Council of India is named as Respondent No.1 which has been constituted according to the provision of Section 4 of the Advocates Act, 1961. The Respondent No.1 is a statutory body created by Parliament to regulate and represent the Indian bar. Respondent No.1 performs the regulatory function by prescribing standards of professional conduct and etiquette and by exercising disciplinary jurisdiction over the bar. Respondent No.1 also sets standards for legal education and grants recognition to Universities whose degree in law will serve as qualification for enrolment as an advocate.

7. That the Bar Council of Delhi, named as Respondent No.2, is an autonomous statutory body constituted under Advocates Act, 1961 with and having wide varied powers, functions and duties. The Respondent No.2 is required to discharge statutory duties under

the Advocates Act, 1961, Advocates' Welfare FUND Act, 2001, Bar Council of India Rules and other Rules.

8. That Respondent No.1 framed Rules (hereinafter referred as Legal Education Rules, 2008) on standards of legal education and recognition of degrees in law for the purpose of enrolment as advocate and inspection of Universities for recognizing its degree in law under Sections 7(1)(h) and (i), 24(1)(c)(iii), and (iiia), 49(1)(af), (ag) and (d) of the Advocates Act, 1961.

9. That by exercising power given to Respondent No.1 under Rule 2(xvi) of the Legal Education Rules 2008, Respondent No.1 constituted a Legal Education Committee which at its meeting held on 30th April, 2010 recommended that all the law colleges having deemed/ permanent status will be inspected by the Bar Council of India and also directed the colleges to deposit inspection fee for permanent/ deemed courses. The true/typed copy of Rule 2(xvi) of the Rules, 2008 is annexed as **Annexure P-1 (Pg)**. The true/typed copy of the recommendation of Legal

Education Committee, as mentioned above, is annexed as **Annexure P-2 (Pg)**.

10. That in the year 2010 itself the Respondent No.1 passed an order and announced as under:

"Respondent No.1 has announced that all law schools and colleges need to report compliance with the Legal Education Rules, 2008. This was in accordance with the decision of the Legal Education Committee on April 30, 2010 each law school/college is required to report compliance with Legal Education Rules, 2008. The deadline for the submission of the same is 5 PM, July 15, 2010. The same may be emailed to dlebci@gmail.com".

The true/typed copy of the aforesaid order of the Respondent No.1 is annexed as **Annexure P-3 (Pg)**.

11. That on 23/09/2014, the Respondent No.1 issued a letter to the Vice Chancellor of University of Delhi. The letter forwarded by Respondent No.1 stated

"that in the absence of extension of approval of affiliation of Law Centres, University of Delhi the students who are admitted in the sessions

2011-12 onward and passed out from the academic year 2013-14 are not eligible for enrolment as advocates”.

Further Respondent No.1 advised to Vice Chancellor of University of Delhi to take appropriate action with regard to these Law Centres mentioned above and inform the Respondent No.1 about the steps taken in this regard immediately. Further the letter, issued by Respondent No.1, stated to Respondent No.2 and other State Bar Councils in the country that the law students who have admitted in 2011-12 and passed out from these law centres from the 2013-14 are not eligible to be enrolled as advocates. The true/typed copy of the letter sent by Respondent No.1 to the Vice Chancellor of University of Delhi is annexed as **Annexure P-4 (Pg)**.

12. That the direction, through letter, issued by Respondent No.1 to Respondent No.2 and all the State Bar Councils results is the revocation of approval of affiliation of all Law Centres of University of Delhi. Such direction given on 23/09/2014 by Respondent No.1 to Respondent No.2 and other State Bar Councils is retrospective in nature affecting those innocent law graduates who took admission in

the year 2011 and graduated in the year 2014 and violates second proviso of Rule 27 of the Legal Education Rules, 2008.

13. That Such retrospective effect of the said order dated 23/09/2014 is per se arbitrary in nature and violates the fundamental right mentioned under Article 14 of the Constitution of such law graduates graduated in year 2014 from Law Centres but denied enrolment by Respondent No.2 as Advocates.

14. That according to the provision of Rule 27 of the Legal Education Rules, 2008 the Respondent No.1 has been empowered to revoke the grant of a temporary or regular approval if the conditions on which the permission was granted are not substantially fulfilled. It further states that a regular permission may be cancelled on an adverse report of inspection. The true/typed copy of the provision of Rule 27 of the Legal Education Rules, 2008 is annexed as **Annexure P-5 (Pg)**.

15. That Respondent No.2 cannot revoke the approval of affiliation of all Law Centres, University of Delhi

without an adverse report of inspection. In the above case the Respondent No.1 has revoked the approval of affiliation only on the ground that Law Centres, University of Delhi, did not comply with the Order issued by Respondent No.1 prescribing the cutoff date 5pm, 15th of July, 2010.

16. That Respondent No.1 has failed to follow the procedure of revocation of approval mentioned under Rule 27 of the Legal Education Rules, 2008 before issuing direction on 23/09/2014 to the Respondent No.2 and other States Bar Council.

17. That such direction, revoking the approval of affiliation of all Law Centres of University of Delhi, of Respondent No.1, is without proper procedure of physical inspection as mentioned in the Inspection Manual 2010, which has been framed by Respondent No.1 itself in the year 2010. The true/typed copy of the proper procedure of Inspection mention in the Inspection Manual, 2010 is annexed as **Annexure P-6 (Pg)**.

In **Viplav Sharma v Union of India & Ors**, the Hon'ble Supreme Court of India has issued following order in the instant case on 25/09/2014:

"Considering the facts and circumstances of the case, it is directed that the UGC shall send a team for inspecting the applicant-institution within a period of eight weeks. If any defect is found by the concerned team, it shall be pointed out to the authorities of the University and they should be granted a reasonable time to remove the same".

The above-mentioned order of the Hon'ble Supreme Court has declared that physical inspection is necessary before derecognizing the said Universities by UGC. The true/typed copy of the order of Hon'ble Supreme Court in **Viplav Sharma v Union of India & Ors** is annexed as **Annexure P-7 (Pg)**.

But in the instant case Respondent No.1 has failed to carry out the physical inspection before revoking the affiliation of Law Centres, University of Delhi.

18. That the term "Inspection of University" has been defined under Rule 2(xvi) of the Legal Education Rules, 2008. The said Rule is reproduced as under:

“Inspection of the University means inspection by the Bar Council of India (Respondent No.1) for recognizing its degree in law for the purpose of enrolment in the rolls of advocates and includes:

(A) calling for all relevant records, documents, and correspondence to evaluate the competence of the University to run professional courses,

(B) visiting places of the Centres of Legal Education including building housing classes, library of the Institution, halls of residence and all other places as may be required by the inspection team inspecting the University and its affiliated Centres of Legal Education where the courses of degrees in law are conducted or proposed to be conducted.

Provided that as and when the Bar Council India communicates to the University for the purpose of inspection, the University shall also direct the concerned officer in charge of Inspection of Centre of Legal Education to instruct all persons concerned for facilitating the Inspection by the inspection team of the Bar Council of India”.

The stages of Inspection mentioned under the Inspection Manual, 2010 is reproduced as under:

“Two stages of Inspection: Inspection by the BCI has the following two stages of Inspection,

(1) The first stage of inspection is the evaluation of documentary evidence to ascertain the competence of an Institution with reference to such matters as, it having proper infrastructure, land and building; proper facilities for residency of faculty and students, if the Institution is a residential one; requisite number of qualified faculty; autonomous functioning under the administration of a Principal/Head/Dean, as the case may be, and a properly constituted Governing Council. It has also to be proved that the Institution fulfills the standards of affiliation under the University and conditions of approval as prescribed by the Bar Council of India. The Inspection Committee shall also evaluate adequacy of Capital fund, library and technology acquisition, legal aid centres and moot courts. It is recommended that this evaluation is done at the Administrative Office of the University itself, by inviting the Institution/Institutions requiring inspection, in the presence of the University officials. Such documentary analysis, review, presentation and scrutiny can be centralized for all Institutions functioning under a particular University and requiring inspection in a

particular year, at the University headquarters, and conducted in one go,.

(2) The second stage comprises field visits and deliberations with all interested parties, the Principal, Governing body members, if available, faculty and students. In this regard, the Committee may even visit the local Bar to evaluate the possibility of the Bar's involvement in education and training as well as in the legal aid center of the Institution. This exercise of Physical verification of resources and fact finding may require the submission of a specific report on all these issues. It is not necessary for all the members of an inspection committee to visit an Institution, though it is preferred".

19. That Respondent No.1 has failed to follow the process of physical inspection before revoking the approval of affiliation of all Law Centres, University of Delhi. According to the Order issued by Respondent No.1 to Respondent No.2, a Circular was issued by Respondent No.2 on 25/09/2014 declaring that University of Delhi Law students are not eligible for enrolment as Advocate. Accordingly, as information available in public domain, Respondent No.2 denied

some Law Graduates of Law Centres, University of Delhi from enrolling them as an Advocate on the ground of the direction given by Respondent No. 1. The copy of such Circular issued by Respondent No.2 is annexed as **Annexure P-8 (Pg)**.

20. That by issuing Letter dated on 23/09/2014, the Respondent No.1 has failed to take into consideration the welfare provision for students who are already enrolled before cancellation of approval. The second proviso of Rule 27 of the Legal Education Rules, 2008 is reproduced as under:

"further provides that in case of revocation or cancellation of approval, as the case may be, proper provisions have to be made for the students who are already enrolled for a law course during the time when the approval was valid either by allowing the Centre to complete the course with those who are already enrolled or direct the University concerned, if such continuance is not in the interest of professional legal education, to make alternative arrangement for those

students in nearby Centres of Legal Education under the University”.

21. That both the Respondents have violated the fundamental right, under Article 21 of the Constitution of India, of such law graduates (graduated in the year of 2014) who have been denied from enrolment as Advocates. Respondent No.1 has failed to take into consideration the just, fair and reasonable process before revoking the approval of affiliation of Law Centres, University of Delhi and Respondent No.2 is responsible by following the illegal order and denying the law graduates of said Law Centres from enrolment as Advocates.

22. That both the Respondents have violated the fundamental right, under Article 14 of the Constitution of India, of such law graduates (graduated in the year of 2014) who have been denied from enrolment as an Advocate. The direction given by Respondent No.1 to Respondent No.2 not to enroll all law graduates graduated in the year 2014 from all Law Centres, University of

Delhi is arbitrary. Accordingly the denial of enrolment to such law graduates by Respondent No.2 is also arbitrary and violates Section 6(1)(a) of the Advocates Act, 1961. The provision of Section 6(1)(a) of the Advocates Act, 1961 is reproduced as under:

“The functions of a State Bar Council shall be-

- a) To admit persons as advocates on its roll
- b)

23. That the petitioner has not filed any other petition seeking same reliefs in this Hon’ble Court or any other High Court in the country.

24. That the Petitioner has no other alternate equally efficacious remedy than to approach this Hon’ble Court.

Grounds:

I. Because before revocation, on 23/09/2014, of approval of affiliation of Law Centres, University of Delhi, Respondent No.1:

- a.** has failed to follow the procedure of inspection established by Rule 27 of Rules on Legal Education, 2008.

- b.** has failed to follow its own two stages of Inspection as mentioned in the Inspection Manual, 2010.
- c.** has failed to take into consideration the protection, of second proviso of Rule 27 of the Legal Education Rules, 2008, given to those law students who are already enrolled for a law course.
- d.** has violated Article 21 of the Constitution of India as the said process of revocation by Respondent No.1 is not just, fair and reasonable.
- e.** has violated Article 14 of the Constitution as the process of revocation by Respondent No.1 is arbitrary in nature.

II. Because Respondent No.2 has:

- a.** violated Section 6(1)(a) of the Advocates Act, 1961.
- b.** violated fundamental right, under Article 21 of the Constitution, of such student graduated in the year 2014 from Law Centres, University of Delhi.

c. violated fundamental right, under Article 14 of the Constitution, of such law students graduated in the year 2014 from Law Centres, University of Delhi.

PRAYER:

In view of the facts and circumstances stated above, it is prayed that this Hon'ble Court may be pleased to:

- i. Issue a writ of Certiorari quashing the direction given, on 23/09/2014, by Respondent No.1 to Respondent No.2 and all the State Bar Councils.
- ii. Issue a writ of Mandamus directing Respondent No.2 to enroll immediately to such Law Graduates, of Law Centres, University of Delhi, who have been illegally denied by Respondent No.2 from enrolment as under Section 6(1)(a) of the Advocates Act, 1961 the Respondent No.2 is under obligation to admit such qualified law graduates on its roll.
- iii. Issue any order, writ or direction to Respondent No.1 to follow the process of Inspection, as soon as possible, according to the procedure mentioned in Inspection Manual, 2010.
- iv. Issue any order, writ or direction to Law Centres, University of Delhi to apply and comply with the

Inspection process, as soon as possible, according to the procedure mentioned in Inspection Manual, 2010.

- v.** Issue any other appropriate writ or direction to Respondents to pay the amount of Rs/ 5,00,000 (five lakh) to each law graduate who has been denied wrongfully by Respondents from enrolment as Advocates.
- vi.** Issue any other appropriate writ or direction to Respondents to bear the costs of this petition.
- vii.** Issue such other writ, direction or order, which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER
SHALL EVER BE GRATEFUL.

Place: New Delhi
Date:

VIJAY KUMAR CHAURASIA

(PETITIONER-IN-PERSON)