

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 10374 of 2023****With****R/SPECIAL CIVIL APPLICATION NO. 10375 of 2023****With****R/SPECIAL CIVIL APPLICATION NO. 10382 of 2023**

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MANEKLAL NANA VATI LAW COLLEGE

Versus

BAR COUNCIL OF INDIA

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Appearance:

MR MRUGEN K PUROHIT(1224) for the Petitioner(s) No. 1

for the Respondent(s) No. 4

MR KAMAL TRIVEDI, ADVOCATE GENERAL with MS. MANISHA

LAVKUMAR, GOVERNMENT PLEADER for the Respondent(s) No. 5,6

MR MANAN A SHAH(5412) for the Respondent(s) No. 1,2

VIKAS V NAIR(7444) for the Respondent(s) No. 3

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**CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL****Date : 20/07/2023****ORAL ORDER**

1. Heard learned Senior Advocate Mr. S.I.Nanavati with learned Advocate Mr. Mrugen Purohit for the petitioners of Special Civil Application No. 10375/2023 and 10382/2023, learned Senior Advocate Mr. P.K.Jani with learned Advocate Mr. Vandan Baxi for the petitioner of Special Civil Application No. 10374 of 2023, learned Advocate General Mr. Kamal Trivedi, with learned Government Pleader Ms. Manisha Lavkumar for the respondent - State, learned Advocate Mr.Manan Shah for the respondent nos. 1 and 2 - Bar Council

of India and learned advocate Mr. Vikas Nair for the respondent no.3 - Gujarat University.

2. A very peculiar situation has arisen more particularly on account of the possible proactive stand of the respondent - Bar Council as regards implementation of the Rules of Legal Education, 2008, more particularly, without appreciating the consequences such implementation would have on the ground.

3. It would appear that the Bar Council has updated a list on its website as regards institutions affiliated to various universities running law courses and whereas, insofar as the universities in the State of Gujarat more particularly in case of Gujarat University, it would appear that some of the law colleges more particularly in case of the petitioner law colleges are stated to have approval only up to the year 2016-17.

3.1. From the facts narrated in the petitions, it would appear that the petitioner - institutions are running since around a century more particularly the Sir L.A.Shah Law College who is the petitioner of Special Civil Application No. 10375/2023, is

stated to be established as far as back in the year 1927.

3.2. It would appear that while the university was in the process of allotting seats to candidates who had applied for Three Year LLB Course, the Bar Council of India had put up an updated list of approved law colleges in this website and whereas, as noted herein above, since the three law colleges who are the petitioners herein find themselves in the list of colleges which are not approved from the year 2016-17, they are before this Court inter alia with various prayers against the Bar Council as well as against the Gujarat University.

3.3. It would also appear that the strict adherence to the rules, without appreciating the practical difficulties involved, had resulted in the earlier writ petitions being filed by the very same institutions before this Court being Special Civil Application Nos. 9122/2017 to 9124/2017. It would also appear that a student had approached this Court by way of Public Interest Litigation being Writ Petition (PIL) No. 198/2020 (converted into Special Civil Application No. 16913/2020) more particularly challenging the strict adherence to the Rules by the Bar Council of India. It appears that the Hon'ble Division Bench of this Court, in the context of

the grievance raised in the petition had directed the Bar Council of India not to take any coercive steps against the grant-in-aid colleges within the State of Gujarat and whereas, it would also appear that the Bar Council as well as the State Government had been directed to come forward with some viable solution to the problem. It would further appear that the Hon'ble Division Bench had also referred to a representation dated 04.03.2020 made by the Executive Vice President of one M/s. Gujarat Law Society addressed to the Bar Council of India listing the practical difficulties of the institutions.

3.4. It would appear that, in the present context, as per the affidavit by the Gujarat University, they have received around 8500 applications from the interest students for pursuing Three Year LLB Course against a total of 3600+10% Economically Weaker Section (EWS) seats. The breakup of the seats have been provided in the affidavit itself as in, 2040+10% seats are treated to be grant-in-aid seats and 1560+10% seats are treated as self financed seats.

3.5. It would appear that herein before, the State Government was considering a division in grant-in-aid

colleges as consisting of 120 students and whereas upon strict adherence to the rules, the division would not have more than 60 students. It would also appear that as per the policy of the State Government, the State Government would not provide grant-in-aid to more than one division in a particular college, hence, it would appear that while grant-in-aid used to be provided to around 120 students, on account of the insistence on adhering to the Rules, half of the seats would not be granted by the State Government. Again, it would also appear that as per the Rules, there are provisions for faculties being appointed and whereas in case of non-adherence to the Rules, the institutions would find itself losing its approval. It would also appear that the institutions are now, on account of the strict adherence to the Rules, left with no other option but to state before this Court that the remaining seats i.e. the seats which have been approved for the institutions, beyond the seats for which the State would grant aid, are required to be converted to self financed seats more particularly to meet with the requirements as prescribed in the Rules by the Bar Council of India.

4. Considering such a situation, more particularly, since it

appears that the State Government would be in a position to give aid to only around 420 seats out of 2040 seats which are granted seats in the Gujarat University, therefore, in the special circumstances more particularly to ensure that the aspiring students have an opportunity atleast to apply for the law course, even in a self financed seat, certain directions are required.

4.1. It would also be relevant at this stage to record that the learned Advocate General assisted by learned Government Pleader has made a statement before this Court that in case the institutions concerned i.e. the present petitioners as well as the four other law colleges which are affiliated to Gujarat University apply for converting the rest of the seats i.e. the seats beyond the seats for which the grant-in-aid would be given by the Government as self financed seats, then the State would not have any objection. The State would not have any objection in principal to the institutions being run in the hybrid mode i.e. one division of grant-in-aid and the one division in the self financed mode. Learned Advocate General would clarify that such a stand of the State is more particularly considering the sudden strict enforcement of the

Rules by the Bar Council of India more particularly in the interest of the students so as to ensure that atleast more number of students get admission to the Three Year LLB Course.

4.2. The University has initially stated that the University would not be able to approve colleges in hybrid mode since they do not have any rules or regulations which envisage the same.

5. In the considered opinion of this Court, in the peculiar facts of this case, more particularly, to ensure that more number of students can get admission in the Three Year LLB Course, for this particular year, the university is required to make an exception more particularly in view of the clear stand taken by the State Government that they would not have any objection to such mode of functioning by the institution concerned.

5.1. At this stage, it would also be worthwhile to reiterate that vide order dated 18.12.2020, the Hon'ble Division Bench of this Court in Writ Petition (PIL) No. 198/2020 had inter alia directed that the Bar Council of India and the State

Government would come forward with some viable solution. It would appear that the State Government, in fact, has shown its readiness and willingness to discuss the issue with the Bar Council, but, the attitude of the Bar Council of India to state the least have been absolutely adamant that they would want strict adherence to their Rules of 2008.

5.2. At this stage, learned advocate Mr. Manan Shah for the Bar Council of India would submit that the validity of the Rules of the Bar Council has been upheld by a Constitutional Bench of the Hon'ble Apex Court in case of Bar Council of India vs. Bonefoi Law College and Others, reported in 2023 LiveLaw SC 96. In the considered opinion of this Court, this Court has not referred to the validity of the Rules more particularly that being beyond the jurisdiction of the Court when the Hon'ble Apex Court has declared the same to be intra vires, yet, issue which is being considered by this Court is the difficulties which are arising on account of the strict adherence to the Rules which, for the present year, has led to a reduction of more than 1000 grant-in-aid seats only in the Gujarat University.

5.3. Learned advocate Mr. Manan Shah, under instructions,



would submit that as far as the present year is concerned, the Bar Council is aligned with the formula as noted herein above and whereas the strict adherence to the Rules would be required from the next academic year onwards. Having regard to the same, learned advocate Mr. Shah would also submitted that insofar as the status of the colleges concerned on the website of the Bar Council, appropriate action is being taken to modify the same for the present year.

5.4. In the considered opinion of this Court, while the intent of the Rules is to ensure quality education in the courses of law would be a very noble objective but, at the same time, adherence to the Rules cannot be divorced from the context of the ground realities which are being faced by the institutions and the students.

5.5. As it is, as noted herein above, the strict adherence to the Rules has led to the seats which were otherwise treated as grant-in-aid seats by the institutions now being required to be converted to self financed seats, which ultimately would cause burden on the students and their families. It would also ensure that adverse consequences would fall on the students who would not have the means to pay the fees in the self

financed institutions.

5.6. Under such circumstances, certain directions are also required to be given to the Bar Council of India more particularly to ensure that the Bar Council of India also considers the issue of students who do not have the financial means or viability to pursue self financed course.

5.7. It would also appear that Rule 43 of the Rules of 2008 also envisaged a Dispute Resolution Body to be formed by the Legal Education Committee of the Bar Council which would be a Dispute Resolution Body for all disputes relating to legal education which is required to follow the procedure ensuring the natural justice for dispute resolution.

6. In view of the above discussion, more particularly to ensure that applicants are not denied admission to law colleges so also in the peculiar facts of the case and on the broad understanding arrived at between the parties, the following directions are passed only for the present academic year 2023-24:-

(i) The petitioner - Institutions as well as other law colleges affiliated to Gujarat University who are similarly situated, are

at liberty to make an application with the Gujarat University for permitting them to convert one division consisting of 60 students to be run in the self financed mode. This application would be only for the present academic year 2023-24.

(ii) Upon such applications being received, more particularly, as per the statement made by learned senior advocate Mr. Nanavati, by 24.07.2023, the University shall process the same as expeditiously as possible but not later than 26.07.2023. The University, if required, shall convene meeting of the Executive Council if the need so arises to ensure that the directions of this Court are strictly adhered to.

(iii) The State Government, as assured by the learned Advocate General, shall provide grant to a division consisting of 60 students and whereas all other requirements that goes with the grant, more particularly, in consonance with the Rules of the Bar Council shall also be provided by the State Government at the earliest.

(iv) The University, upon taking a decision shall convey the same to the institutions concerned and whereas, if the University positively considers the request, then the

University will also be at liberty to forthwith start the admission process as regards the 60 grant-in-aid seats and the 60 self financed seats per institution as noted herein above. It is also clarified that the University shall also ensure that the fees which would be charged for the self financed seats by the present petitioners and other similarly situated institutions shall not exceed the fees approved for similarly situated colleges by the Gujarat University.

(v) The Bar Council of India shall depute a team of reasonably senior members of Bar Council of India or who may be the members of either the Legal Education Committee or the Dispute Resolution Committee as the case may be or any appropriate Committee as though fit by the Bar Council, who shall have a meeting with the officials of the State Government as well as the Institutions to try and find a solution to the issues being faced by the Institutions like the present petitioners more particularly on account of the strict adherence to the Rules. The team of Bar Council shall, in consultation with the learned advocate appearing for the Bar Council of India, fix a date for meeting with the competent officials of the State Government as well as the officials of the

Institutions concerned whereas it is expected that the Bar Council and the State Government in coordination with each other along with the assistance provided by the institutions would come up with a viable solution to the issue.

(vi) The Bar Council shall also keep in mind the fact that strict adherence to its Rules has, as of now, ensured that at least more than 1000 seats in the grant-in-aid seats available with the Gujarat University for admission to the Three Year LLB Course have been reduced, which reduction is ultimately going to hurt the interest of students who would not have the means to pursue self financed LLB Course. The above aspect shall be the paramount aspect which shall be kept in mind by the Bar Council while attempting to work out the solution.

7. For producing compliance of the directions to the University, list on 27.07.2023.

8. Furthermore, all parties specially the Bar Council of India would inform this Court on or before 28.08.2023 the progress as regards the directions given herein above.

**(NIKHIL S. KARIEL,J)**

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