

(2009) 09 MAD CK 0213

Madras High Court

Case No: Writ Petition No. 14877 of 2009 and M.P. No's. 1 and 2 of 2009

M. Santhosh Antony Vareed

APPELLANT

Vs

The Registrar, Tamil Nadu Dr.
Ambedkar Law University

RESPONDENT

Date of Decision: Sept. 9, 2009

Acts Referred:

- Advocates Act, 1961 - Section 49, 49(1), 7(1)
- Constitution of India, 1950 - Article 124, 125, 126, 127, 128

Hon'ble Judges: N. Kirubakaran, J

Bench: Single Bench

Advocate: S. Ilamvaludhi, for the Appellant; Ramakannan, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

N. Kirubakaran, J.

The writ petition has been filed challenging the prospectus issued for 3 year B.L. Degree Course 2009-2010 issued by the Respondent and to quash the same and consequently for a direction to the Respondent to accept the Petitioner's application for 3 year B.L. Course admission by relaxing the instructions specified in Column No. 2 (iii) and to condone the excess 8 days.

2. The case of the Petitioner is that he applied for B.L. Degree Course in the year 2008 and he was selected. Though the order of selection was communicated to the residential address of the Petitioner and the same was received by his neighbour when he was out of station. By that time when he got the communication and went to Law University, some other candidate already joined the course.

3. The Petitioner states that when he applied for Law College admission for the year 2009-2010, he was surprised to see the condition in Column No. 2 prescribing the

age limit for joining Law College. As per Column 2 (iii) of the notification/instruction, a candidate should not have completed 30 years of Age as on 1st June 2009 (i.e., the candidate must have born on or after 01.06.1979) whereas the Petitioner was born on 23.05.1979. Because the Petitioner was overaged by 8 days over and above the age limit, he misses his chance to apply for the Law course. Hence the Petitioner has come before this Court challenging the age limit fixed in the prospectus.

4. Bar council of India, after many deliberations with view to enhance the quality of Law Education and also to streamline the procedure for admission, brought out changes. One of such conditions is fixing of age limit for getting admission into Law College. Legal Education has to be raised in standard on par with other professional courses like Engineering and Medicine. Changes in the admission procedure have been done in a proper manner and fixing of age limit is a welcome one. After noting many loop holes in the procedure, which was in vogue till last year, the changes have been brought and they have been notified by Bar Council of India.

5. Paragraph 3 of the counter affidavit filed by the Respondent reads as follows:

I submit, with regard to para 8 & 9 it is stated in the prospectus for admission in to 3 year B.L. Degree Course, 2009-2010 under para 2(iii) that "A candidate should not have completed 30 years of Age as on 1st June 2009, (i.e., the candidate must have born on or after 01.06.1979). In case of candidates belonging to SC/ST communities the maximum age limit is 35 years, (i.e., the candidate must have born on or after 01.06.1974)

In this regard, I submit that as per the Bar Council of India Rules under Par-IV, Para 28(b) it is stated as follows:

Subject to the condition stipulated by a University, and the general social condition of the Applicants seeking legal education belatedly, the maximum age for seeking admission into a stream of Three Year Bachelor Degree Course in law, is limited to thirty years with right of the University to give concession of 5 further year for the Applicant belonging to SC or ST or any other Backward Community.". This university has strictly adhered to the instructions of the Bar Council of India with regard to age on admission and other governing matters. The rule of the Bar Council of India cannot be relaxed by this Respondent university, since it is the Executant Authority and not the Directing Authority.

6. Bar Council of India made Rules, known as "Rules of Legal Education-2008, (Part iv)", on standards of legal education and recognition of degrees in Law for the purpose of enrolment as advocate and inspection of Universities for recognising its degree in law u/s 7(1) (h) and (i), 24 (1) (c) (iii) and (iii), 49 (1) (af), (ag) and (d) of the Advocates Act 1961. The aforesaid rules were made by Bar Council of India, which is an expert body, in consultation with universities and state Bar Councils. Bar council has got power and jurisdiction to make rule to maintain standard of legal education. The Rules were approved and adopted by the Bar Council of India at its meeting

held on 14th September 2008 vide its resolution No. 110 of 2008. The Rules have come into force.

7. Functions of Bar Council of India are stated in Sec 7 Advocates Act 1961. Section 7(l)(h) reads as follows:

7. Functions of Bar Council of India:(1) The functions of the Bar Council of India shall be-

(a)

(g)

(h) to promote legal education and to lay down standard of such education in constitution with the Universities in India imparting such education and state Bar Councils.

Section 49 of Advocates Act speaks about general powers of the Bar Council of India and Section 49(l)(af) is extracted 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-

(a)

(ae)

(af) the minimum qualifications required for admission to a course of degree in law in any recognised university.

(c)

(d) the standards of legal education to be observed by universities in India and the inspection of universities for that purpose.

The above provisions would undoubtedly prove that the Bar Council has power competence competence and jurisdiction to lay down norms regarding legal education.

8. The Hon"ble Supreme Court in [V. Sudeer Vs. Bar Council of India and Another](#), while setting aside Bar Council Rule providing for pre enrolment training and apprenticeship, recognised the role of Bar Council in suggesting ways and means to promote legal education to be imparted by the universities and its power to lay down the standards of education, syllabi in consultation with the universities in India and the same are extracted as follows:

It is necessary to note that in the light of experience of various Courts in which advocates are practising since the time the Advocates Act has come into force, the Law Commission of India and other expert bodies that were entrusted with the task

of suggesting improvements in the standards of legal education and legal practitioners felt it necessary to provide for compulsory training to young advocates entering the portals of the Court rooms. Training under senior advocates with a view to equip them with Court craft and to make them future efficient officers of the Court became a felt need and there cannot be any dispute on this aspect. In fact, the question of making some suggestions regarding admission to law Colleges, syllabus, training, period of practice at different levels of Courts etc., was taken up as Item No. 16 in the last Conference of the Chief Justices held in December, 1993. The conference resolved that Hon"ble the Chief Justice of India be requested to constitute a Committee consisting of Hon"ble Mr. Justice A.M. Ahmadi as its Chairman, and two other members to be nominated by Hon"ble the Chief Justice of India to suggest appropriate steps to be taken in matter so mat the law graduates may acquire sufficient experience before they become entitled to practice in the Courts. The said High Power Committee, after inviting the views of the Chief Justices and State Bar Councils as well as the Bar Council of India made valuable suggestions.

It is true that these suggestions of the High Power Committee clearly highlighted the crying need for improving the standards of legal education and the requirements for new entrants to the legal profession of being equipped with adequate professional skill and expertise. There also cannot be any dispute on this aspect. However, as the saying goes "a right thing must be done in the right manner". We appreciate the laudable object with which the Bar Council of India has framed the impugned rules for providing training to the young entrants to the profession by laying down details as to how they should get appropriate training during their formative years at the Bar.

9. In [Inamdar Vahab Badasha and Others Vs. Symbiosis Society's Law Collegs, Pune and Others](#), , the Bombay High Court held that rules framed by Bar Council of India prescribing minimum qualification for admission to a degree course in law in any university cannot be said to be arbitrary. The Gujarat High Court in Jayesh Hema chandra Belsare v. Registrar, BhavaNagar University reported in 1986 G.L.H 949 held that university has to implement the norms laid down by the Bar Council of India which is empowered to make rules relating to standards of legal education.

10. A Constitution Bench of the Hon"ble Supreme Court in [Dr Preeti Srivastava and Another Vs. State of M.P. and Others](#), has held that regulation of admission has a direct impact on the maintenance of standards of education and further held that while considering the standards of education in any college or institution, the calibre of students who are admitted to that institution cannot be ignored. In [Veterinary Council of India Vs. Indian Council of Agricultural Research](#), it was held that

Vetenary Council of India is competent and empowered to prescribe standards of Vetenary Education which includes power to regulate admission to the course. Similarly Bar Council of India is competent to prescribe standards including age limit

and it has been brought only to maintain "standards of legal education"

11. In view of the above, the relief sought for by the Petitioner cannot be granted and the writ petition is liable to be dismissed. Moreover there is no provision in the rules for condoning the age limit. Any academic course requires age limit for getting admission. Young mind can be moulded where as matured mind cannot be moulded very easily. Fixing of age limit for admission would bring uniformity among the students. Apart from that, it would change the position that any body and every body at any age could join law college. As stated earlier, the procedure has been changed only for enhancing the quality of legal education after much deliberations and consultation with the Universities and State Bar Councils.

12. In view of the reasonings given above, the writ petition is liable to be dismissed. Mr. S. Ilamvaludhi, Learned Counsel for the Petitioner seeks leave of this Court to file a representation to the Tamil Nadu Dr. Ambedkar Law University submitting his grievances and the same may be directed to be disposed by the Respondent.

13. Hence the Petitioner is directed to submit a representation furnishing the details of grievance within one week and the Tamil Nadu Dr. Ambedkar Law University is at liberty to dispose of the same in accordance with law within two weeks thereafter.

14. Dr. S. Radhakrishnan, the first Vice-president of Republic India said:

Our Colleges of law do not hold a place of high esteem either at home or abroad, nor has law become an arena of profound scholarship and enlightened research.

Things have not changed so far and no serious thought has been given to enhance the legal education in our Country. Time has come to revamp and upgrade the entire legal education. Fixing Age limit is the first step in the right direction. Only when right and bright students are admitted in the law colleges, standard and talented people would come out of the law colleges and they alone can play important role in protecting Rule of Law, democracy and administration of Justice.

15. Law colleges are like nurseries where the right seeds are required to be sown so that what is sown would be harvested. If the input is not appropriate the outcome will not be good. Those who are admitted in the law colleges are going to be responsible for rule of law and administration of justice in this country. It is better that the antecedents of those who seek law admission are looked into, as there is likelihood of unruly elements getting into profession and likelihood of shielding their nefarious activities by law degrees. Law degrees should not land in the hands of those elements and it would further dilute the standards in the profession finally. The Hon'ble Supreme Court in [Satish Kumar Sharma Vs. The Bar Council of Himachal Pradesh](#), emphasised the need for preserving clean and sufficient bar in the country and the same reads as follows:

The profession of law is called a noble profession. It does not remain noble merely by calling it as such unless there is a continued, corresponding and expected

performance of a noble profession. Its nobility has to be preserved, protected and promoted. An institution cannot survive in its name or on its past glory alone. The glory and greatness of an institution depends on its continued and meaningful performance with grace and dignity. The profession of law being noble and honourable one, it has to continue its meaningful, useful and purposeful performance inspired by and keeping in view the high and rich, traditions consistent with its grace, dignity, utility and prestige. Hence the provisions of the Act and Rules made thereunder inter alia aimed at to achieve the same ought to be given effect to in their true spirit and letter to maintain clean and efficient Bar in the country to serve cause of justice which again is noble one.

16. Great leaders like Mahatma Gandhi, Dr. B.R. Ambedkar, Rajaji, Motilal Nehru were lawyers and most of the policy makers in most of the countries continue to be lawyers. Hence it is time to take steps to restore past glory of the legal profession in our country and it should commence from the admission of students in law colleges and it has rightly commenced by the new rule.

17. The role of Bar council in standardising the legal education is very important and it has to constantly watch and regulate functioning of law colleges and revise the curriculum as and when necessary. To keep pace with globalisation, the curriculum of legal education requires to be constantly reviewed to suit the present day situation in such a way that talented students are attracted to law colleges and it would alone would prevent/restrict deterioration of standards in legal education and profession and prevent recurrence of November 2008 violent incidents in law college leading to constitution of Justice Shanmugam Commission. If the legal education is not corrected with appropriate remedial measures, the justice delivery system in this country would suffer irreparably and that is not good for largest democracy of the world.

18. The Hon"ble Supreme Court in R.K. Anand v. Registrar, Delhi High Court reported in 2009(6) SCJ 465 spoke about the responsibility of Bar Council in the administration of Justice. The right first step has been taken by the Bar Council by prescribing age limit for legal education and more steps are expected in the interest of the society at large.

STANDARD AND QUALITY LEGAL EDUCATION IS THE REQUIREMENT OF OUR CONSTITUTION

19. Chapter IV of Part v. of the Constitution of India deals with "The Union of Judiciary" which contains Articles 124 to 147; Chapter v. of Part VI of the Constitution describes about "The High Courts in the States" which contains Articles 214 to 231; Chapter VI of Part VII deals with "Sub-Ordinate Courts" which contains Articles 233 to 237. Article 76 speaks about appointment and powers of "Attorney General of India" and his right is given in Article 88. Similarly "Advocate General"s" appointment and functions are given in Article 177. The common thing in the

aforesaid articles is that the persons who are to be appointed in "Union Judiciary", "High Court", "Sub-Ordinate Court", "Attorney General" and "Advocate General" are Advocates. No other profession except legal profession has been recognised by the Constitution. The appointments for the aforesaid coveted posts are made from lawyers. Hence requirement of Constitution is "Standard quality Legal Education" which alone can produce competent Advocates who could occupy the constitutional posts to act as per constitutional mandate. Then only the scheme of the constitution will be fulfilled by appointing competent, qualified, capable and proper Advocates to discharge the constitutional functions as stated in the above Articles.

20. This Court feels that, the new bar council rule is a welcome step to enhance the standard and quality of the legal education. In western countries, the rank holders/higher mark holders are opting for Law Colleges first like medical colleges in our country. The legal education has to be made meaningful. William Wordsworth wrote: "Child is the Father of Man". Likewise, law student is the future of Legal profession, Judiciary and Rule of Law. Hence utmost care has to be given to legal education which was hitherto neglected. Legal education requires to be made on par with the other professional courses. The following suggestions are made regarding quality law education and the Government and Bar Council of India may take note of the suggestions:

a) The classes in law colleges have to be conducted like a regular college on the line of National Law School and the attendance has to be made mandatory where as law classes are taught like part time course in shifts and in a few colleges, this Court understands that attendance is not a must.

b) College hours have to be increased from 4 hours to 5 hours or 6 hours and having classes in morning as well as afternoon so that the students would get stuck to their studies.

c) Higher marks like minimum 60% marks may be prescribed for getting admission into law colleges so that comparatively more competent, bright and intelligent students would join the course and it would enhance the quality and competence in the legal profession. Even if all the seats in the law colleges are not filled up by fixing higher marks, those seats need not be filled up with students with lesser marks. This would enable the law colleges to get credible image.

d) As stated earlier the antecedents of the students, if necessary, may be verified before admitting them into law course.

e) Appointment of competent full time professors/lecturers is to be made.

f) Appropriate infrastructure like proper libraries have to be provided and those colleges which do not have proper infrastructure and provide quality education should be closed down and new colleges need not be opened considering availability of long number of advocates and Law Colleges.

g) Three year law course has to be scrapped in a phased manner as five year integrated course was introduced to replace three year course.

h) Standardising legal education, in keeping pace with globalisation and new trends and challenges in the field by updating the syllabus is essential.

i) Jurists like Judges of Supreme Court, High Court, Senior Advocates, Academicians have to be involved in legal education by involving them in making syllabus and to contribute by way of lectures, seminars workshop etc.

j) Ethical and moral values have to be taught as subjects and have to be inculcated in their minds, as they are necessary and essential for legal profession inevitably.

k) Law students have to be involved in field study like court visit, social services, Legal Workshop so that they could interact with masses.

1) Police officials can also be associated with legal education by inviting them to give lectures on investigation and prosecution in criminal cases. The interaction between police and law students prevent or bring down the clashes between the lawyers and police in future.

21. With the above observations/suggestions, the writ petition is disposed of. No costs. Consequently the connected miscellaneous petitions are closed.