

(2018) 06 DEL CK 0040
In the Delhi High Court
Case No : W.P.(C) 5285 OF 2018

AANYA KAMESHWAR AND ORS

APPELLANT

Vs

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY AND
ORS

RESPONDENT

Date of Decision : 01-06-2018

Acts Referred:

Education Rules 2008 — Rule 12
Bar Council of India Rules, 1975 — Rule 10, 12

Citation : (2018) 06 DEL CK 0040

Hon'ble Judges : REKHA PALLI

Bench : Single Bench

Final Decision : Allowed

Judgement

1. The Petitioners/Applicants, who are final year students of the B.A. LLB (Hons.) course at the Respondent No. 2/College, which is affiliated with

Respondent No. 1/Guru Gobind Singh Indraprastha University (hereinafter referred to as "GGSIP University"), have filed the present application

seeking inter alia interim directions to the Respondents No. 1 and 2 to implement the recommendations made in the "Report of the Committee

Constituted by the Vice Chancellor, GGSIPU, Delhi to examine the Allegations and complaints raised by the Students of Amity Law School Delhi in

respect of attendance and detention for November/December semester end examinations, 2017" dated 21.02.2018 (hereinafter referred to as Expert

Committee Report). The Applicants also seek a direction to the Respondents No. 1 and 2 to grant them additional attendance for 7 days, or in the

alternative conduct 7 days of extra classes, to make up for the 7 days of classes/tutorials that were allegedly not held by the Respondent No.

2/College in accordance with the Respondent No. 1/University's academic calendar.

2. The facts as emerge from the record that are relevant for determining the present petition are that the Applicants completed their fourth year and entered the ninth semester of their B.A. LLB (Hons.) course in May 2017. On 18.07.2017, the Respondent No. 1 issued a circular directing all its affiliated colleges to publish the list of students detained in a given semester, due to shortage of attendance, at least 10 days prior to the scheduled date of the endsemester examinations. The said circular also directed that such students and their parents also be informed via registered post/speed post of the deficiency in the students' attendance, so as to enable them to make any representations and correct any discrepancies in their respective attendance records.

3. In October 2017, the Respondent No. 2/College sent an email to the Applicants and their parents, informing them that the Petitioners were falling short of the prescribed attendance criteria and must meet the same by the end of the ninth semester to be able to take their endsemester examinations. The Respondent No. 2 thereafter issued a list dated 16.11.2017 of the students detained from giving their endsemester examinations, which list also included the names of the Applicants herein, pursuant whereunto emails were sent to the detainees and their parents informing them of students' detention on the ground that they failed to meet the attendance criteria prescribed by Clause 9.1 of Ordinance 11 of the Respondent No.

1/University as also Rule 12 of the Rules of Legal Education, Bar Council of India Rules (hereinafter referred to as 'BCI Rules'). It may be noted that the endsemester examinations for the ninth-semester were scheduled to be held from 21.11.2017 and, therefore, the aforementioned detention list was issued only 5 days prior to the date on which the end-semester examinations were scheduled to begin.

4. It is the Applicants' case that the aforementioned emails sent to them and their parents, informing them of their detention from giving the end-semester examinations due to shortage of attendance, were not only vague and cryptic for lack of providing any specific and cogent reasons, but also illegal since the Applicants were regular students who had not met the prescribed mandatory attendance criteria only because the Respondent No.

2/College had not held the mandatory number of classes prescribed by the Respondent No. 1/University as also the Respondent No. 3/BCI. It has

been contended that the said infractions on part of the Respondent No. 2/College were brought to the attention of the Respondent No. 1/University,

but to no avail. Therefore, aggrieved by the detention list dated 16.11.2017, the Applicants preferred a writ petition being WP (C) No. 10344/2017

before this Court. Learned counsel for the Respondent No. 1/University, who had appeared on advance notice before this Court on 20.11.2017, had at

that stage produced an office order dated 20.11.2017, whereby the Vice Chancellor of Respondent No. 1/University had constituted an Expert

Committee to look into the allegations and complaints raised by the students of Respondent No. 2/College, in respect of the attendance and detentions

for the endsemester examinations scheduled to be held from 21.11.2017. In light of the Respondent No. 1's office order dated 20.11.2017

constituting the aforementioned Expert Committee, this Court vide its order dated 20.11.2017 had provisionally allowed the Applicants to take their

endsemester examinations for the ninth semester by way of an interim arrangement, and had made the declaration of the Applicants' results

subject to the findings of the aforementioned Expert Committee.

5. The Expert Committee constituted by the Respondent No. 1/University, after hearing not only the effected students but also the representatives of

the Respondent No. 2/College, vide its report dated 21.02.2018 found that as per the Respondent No. 1/University's academic calendar, classes were

to be conducted for a period of 15 weeks beginning from 01.08.2017 to 10.11.2017. However, the Expert Committee found that the Respondent No.

2/College did not continue classes till 10.11.2017 but ended the same on 03.11.2017. The Committee further found that, though the Respondent No.

2/College conducted tutorial classes from 06.11.2017 to 09.11.2017 and on 11.11.2017, vide its notices dated 01.11.2017 and 11.11.2017 respectively,

there was nothing on record to show that these notices were ever brought to the individual attention of the students by email or otherwise. The

Committee also categorically observed that the attendance registers revealed that most of the students were absent from class during the aforesaid

tutorial classes held by the Respondent No. 2/College. Therefore, based on its aforementioned findings, the Expert Committee vide its report dated

21.02.2018 made the following recommendations:-

(i) That the Respondent No. 2, i.e. Amity Law School, Delhi must give attendance for vivas and 2 internal examinations and that the same should be followed in further as well.

(ii) That Respondent No. 2 should organize special classes for 07 days including moot court room exercises, tutorials and practical training conducted

in the subject. Six classes may be held each day. These classes would take care of loss of attendance for seven days when classes were not

held after 3rd November, 2017 as per the academic calendar notified by GGSIP University (Respondent no. 1). This should be done as soon as

possible as some students may lose their chance for higher studies.

(iii) The attendance should be given only for class lectures and moot court exercise, tutorials and practical training conducted in the subject and not for

any other activity like sports, dance, drama, preparation of an activity, photo session etc. If any policy is formulated which is not strictly covered in

these activities, prior written permission should be obtained from the Bar Council of India (Respondent no. 3) as also GGSIP University.

(iv) That the academic calendar notified by GGSIP University be strictly followed in letter and spirit including timely notification of attendance to the

students and its communication to the University.

(v) That the results of the end-term examinations held in November-December, 2017 for ALSD (Respondent no. 2) students should not be declared

till the students have complied with the attendance requirement prescribed under BCI rules, as pointed out in the above recommendations.

6. On 07.03.2018, the Respondent No. 1/University issued an office order accepting the Expert Committee Report dated 21.02.2018, and directed the

Respondent No. 2/College to implement the recommendations made therein within a period of 30 days. In light of the recommendations made in the

Expert Committee Report dated 21.02.2018 as also the Respondent No. 1/University's directions to the Respondent No. 2/College to comply with

the same, the writ petition bearing WP (C) No. 10344/2017 was withdrawn. However, it emerges that the Respondent No. 2/College has till date,

despite the Respondent No. 1/University's directions, not implemented the recommendations made in the Expert Committee Report dated

21.02.2018. It is in these circumstances that the Applicants, who are now final-

semester students with LL.M. offers from prestigious colleges and pre-placement offers from top-tier law firms, have filed the present petition being WP (C) No. 5285/2018 before this Court seeking a direction to the Respondents to release the Petitioners/Applicants' results for their ninth-semester end term examinations and to further issue them their provisional degrees. Pending the disposal of the aforementioned petition, the Petitioners/Applicants have preferred the present application for interim relief seeking inter alia interim directions to the Respondents to implement the recommendations made in the Expert Committee Report dated 21.02.2018.

7. When the petition was taken up for preliminary hearing on 16.05.2018, it was the Respondent No. 2/College's case that it had not yet implemented the recommendations contained in the Expert Committee's report because the Respondent No. 3/Bar Council of India (hereinafter referred to as the 'BCI') had vide its order dated 24.03.2018 found the same to be in violation of the BCI Rules and had advised it to keep the Respondent No. 1/University's directives in abeyance. It was the Respondent No. 2's further case that the aforementioned recommendations of the Respondent No. 3/BCI had already been approved by its own Legal Education Committee, pursuant whereunto the said recommendations were to be tabled before the General Council of the Respondent No. 3/BCI on 25.05.2018.

8. In light of the aforementioned submissions of the learned counsel for the Respondent No. 2, this Court vide its order dated 21.05.2018 directed the Respondent No. 3/BCI to place on record the decision of its General Council in its meeting held on 25.05.2018. In compliance of this Court's order dated 21.05.2018, the Respondent No. 3 has placed on record, an extract of the minutes of the meeting of its General Council held 25.05.2018, the relevant portions of which read as under:-

Having perused all the documents/records produced before us, and keeping in view Rule-12 of the Legal Education Rule-2008 and in view of the repeated endorsement of Rule -12/attendance rules of the Legal Education Rule-2008 by the Court wherein it has been many times pointed out that for professional courses like LL.B there can be no relaxation/exemption in the attendance criteria/rules as prescribed in Rule-12 of the Legal Education Rule-2008 and after having noted judgments passed by the Delhi High

Court in University of Delhi & another Vs. Vandana Kandari and

another along with the recent order passed in Ankit Meena Vs. University of Delhi by the Honâ??ble Delhi High Court, the General Council of the

Bar Council of India is of the view that the attendance as prescribed under its Rule-12 of Legal Education Rule-2008 is a condition which is required

to be fulfilled before exams and it cannot be allowed to be fulfilled after exams.

However, at the same time the Bar Council of India is of the view that if the Honâ??ble High Court of Delhi is of the view that on account of the

academic calendar as prescribed by Guru Gobind Singh Indraprastha University not being complied with by Amity Law School, Delhi, even though the

number of lectures prescribed by Guru Gobind Singh Indraprastha University as per itâ??s academic calendar has been complied with by Amity Law

School, Delhi the Honâ??ble High Court if it deems fit and proper it may in its wisdom decide to grant attendance for such remaining period/days of

the calendar year.

The Bar Council of India is not in a position to take any other stand contrary to itâ??s attendance Rule of Legal Education Rules 2008 and allow

classes to be held after exams to fulfil shortage of attendance for which there is no precedence and which is against the basic mandate of Rule 12 of

the Legal Education Rules.

9. Having set out the facts hereinabove, I may now refer to the rival contentions of the learned counsels for the parties. Ms. Karuna Nandy, learned

counsel for the Petitioners, firstly submits that the Respondent No. 2/College is administered under the aegis of and affiliated with the Respondent No.

1/University, as a consequence of which the Respondent No. 2/College is legally obligated to follow the Respondent No. 1/Universityâ??s academic

calendar. She submits that, while the Respondent No. 1/Universityâ??s academic calendar clearly mandated all its affiliated colleges to conduct

classes till 10.11.2017, the Respondent No. 2/College only conducted classes till the 03.11.2017 and was, therefore, in violation of the Respondent No.

1/Universityâ??s academic calendar.Â

10. Taking her aforementioned plea further, Ms. Nandy submits that the Respondent No. 2/College was also in violation of Rule 10 of the BCI Rules,

as per which rule she claims the Respondent No. 2/College was statutorily obligated to conduct at least 648 hours of class over a period of 18 weeks,

during a semester of the dual degree integrated course. However, she submits, during the Applicants's ninth-semester, the Respondent No.

2/College only conducted 151

hours of class over a total of 69 working days. By placing reliance on the following decisions of various High Courts, including this Court, Ms. Nandy

contends that while the Respondent No. 2/College is statutorily obligated to abide by the BCI Rules and conduct the mandatory number of class hours

prescribed by the same, it has miserably failed to do so, and has only conducted about 35% of the mandatory prescribed class hours:

a. Apoorv Yadav v. University of Delhi and Ors. [2014 SCC OnLine Del 3909];

b. Mohanan M.E. and Ors. v. University of Calicut [2016 SCC OnLine Ker 38639];

c. Satheesh Kumar N. v. Mahatma Gandhi University [2015 SCC OnLine Ker 29037]; and

d. Arjun Singh and Ors. v. The Vice-Chancellor, Jamia Milia Islamia and Ors. [1997 SCC OnLine Del 581].

11. Thus, Ms. Nandy's contention is that the Respondent No. 2, having conducted a lesser number of classes than mandated by the Respondent

No. 1/University as also the Respondent No. 3/BCI, had deprived its students, including the Applicants, of an opportunity to attend the requisite

number of classes to meet the mandatory attendance criteria prescribed under Clause 9.1 of Ordinance 11 of the Respondent No. 1/University and

Rule 12 of the BCI Rules. Therefore, she submits, the action of the Respondents in detaining the Applicants in their ninth-semester on the ground of

shortage of attendance is illegal and arbitrary in the first place, and instead of detaining the Applicants, the Respondent No. 2/College ought to have

implemented the recommendations of the Expert Committee to conduct 7 days of extra classes to make up for the shortfall of attendance, on account

of the Respondent No. 2/College's illegal action in ceasing to conduct classes 7 days prior to last date of classes as per the Respondent No.

1/University's academic calendar. 12. On the other hand, Mr. Amitesh Kumar, learned counsel for the Respondent No. 2/College, while

vehemently denying that it had stopped conducting classes on 03.11.2017 or was not in compliance with the BCI Rules, contends that the Respondent

No. 2/College had in fact conducted tutorial/remedial classes from 06.11.2017 to 09.11.2017 and then on 11.11.2017, which classes were notified to

the students vide notifications dated 01.11.2017 and 11.11.2017 respectively, so as to enable the students to make up the shortfall in their attendance.

Therefore, he submits that the Respondent No. 2/College, having not violated the Respondent No. 1/University's academic calendar or the BCI Rules,

cannot be faulted for detaining the Applicants in their ninth semester, since they had failed to meet the mandatory attendance criteria prescribed under

Clause 9.1 of Ordinance 11 of the Respondent No. 1/University as also Rule 12 of the BCI Rules. In support of his contention that the attendance

criteria prescribed under the BCI Rules is mandatory and must be strictly complied with, Mr. Kumar places reliance upon the following decisions of

this Court:

- a. S.N. Singh v. Union of India and Ors. [106 (2003) DLT 329]
- b. Vandana Kandari v. University of Delhi [2010 (170) DLT 755];
- c. Sukriti Upadhyay v. University of Delhi [2010 VIII AD (Delhi) 385];
- d. Heena Bahal v. University of Delhi and Ors. [2013 (197) DLT 469 (DB)];
- e. Ankita Meena v. University of Delhi [WP(C) No. 5194/2018]; and
- f. Kiran Kumari and Ors. v. Delhi University and Ors. [WP(C) No. 9143/2007].

13. Without prejudice to his aforesaid contention, Mr. Kumar contends that the organization of another 7 days of extra classes, as recommended in the

Expert Committee Report dated 21.02.2018, would be in the teeth of Rule 12 of the BCI Rules, since the same contemplates the fulfillment of the

prescribed attendance criteria before the end-semester examinations and not after the examinations have concluded. He thus contends that, in view of

the admitted position that the ninth-semester examinations have already concluded, the Respondent No. 2/College cannot be directed to conduct any

extra classes at this stage, lest the Respondent No. 2/College flouts Rule 12 of the BCI Rules, which it has been repeatedly held is stringently binding

on all recognized educational institutions of law.

14. Mr. Kumar, while opposing the interim application, also places reliance upon an order dated 16.02.2000 of the Supreme Court in the case of Union

of India v. Era Educational Trust and Anr. [(2000) 5 SCC 57], to contend that in academic matters such as the present case, the Courts ought not to

be guided by sympathy in passing interlocutory orders, so as to avoid subverting academic discipline. He submits that directing the Respondent No.

2/College to conduct extra classes after the conclusion of the examinations in respect of which the students were detained on the ground of shortage of attendance, would necessarily act as a bad precedent and resultantly compromise on academic discipline, by granting even greater leeway to deviant students to miss classes.

15. Mr. Preet Pal Singh, learned counsel for the Respondent No. 3/BCI, while placing reliance on the decision dated 25.05.2018 of the General

Council of the Respondent No. 3/BCI, submits that in view of the admitted position that Rule 10, Rule 12 and Clause 18 of Schedule III of the BCI

Rules are all mandatory and binding on the centers of legal education recognized by the Bar Council of India, the decision of the Respondent No.

3/BCI in not approving the report of the Expert Committee appointed by the Respondent No. 1/University was fully justified. By placing reliance on

Rule 10 of the BCI Rules, he contends that it was mandatory for the Respondent No. 2/College to conduct a minimum of 648 hours of classes over

the course of 18 weeks, in each semester of the dual degree integrated B.A. LLB (Hons.) course, out of which 540 hours were to be dedicated to

inclass lectures, whereas 108 hours were to be dedicated to tutorials, moot court exercises, seminars etc. While conceding to the fact that the

Respondent No. 2/College had not indeed conducted the requisite number of class hours as prescribed under Rule 10 of the BCI Rules, he submits

that it was for the Respondent No. 1/University and not for the Respondent No. 3/BCI to monitor the Respondent No. 2/College's adherence to the

statutory requirements.

16. Mr. Singh further submits that the recommendations in the Expert Committee Report dated 21.02.2018 were tabled before the General Council of

the Respondent No. 3/BCI in its meeting held on 25.05.2018, wherein the Council had come to a categorical conclusion that it could not approve the

recommendation made in the said report to conduct 7 days of extra classes, after the end-semester examinations for the ninth semester had already

concluded. Conducting extra classes subsequent to the end-semester examinations, he submits, would tantamount to violating Rule 12 of the BCI

Rules, which is sacrosanct and specifically stipulates that students must meet the prescribed attendance criteria prior to their end-semester

examinations and not after.Â

17. On a pointed query by the Court, Mr. Singh concedes that the Respondent No. 1/University was not given any opportunity to explain its stance

regarding the conclusions arrived at by the Expert Committee or the justifications for its recommendations and the consequential directions to the

Respondent No. 2/College to comply with the same. However, he submits that this was not an instance when the Respondent No. 3 had suo motu

considered the Respondent No. 1/University's report/directives, but was an instance when the same had been forwarded to it by the Respondent No.

2/College itself and, therefore, in these circumstances there was no occasion for the Respondent No. 3/BCI to give an opportunity to the Respondent

No. 1/University to make any representations whatsoever.

18. Having heard the learned counsels for the parties at great length on the present application for interim relief and having given my thoughtful

consideration to their rival contentions, I find that the short issue which needs to be considered at this stage is, whether pending adjudication of the

present writ petition, the recommendations of the Expert Committee as contained in its report dated 21.02.2018, ought to be implemented by the

Respondent No. 2/College.

19. At this stage, before I examine the reasons for the Respondent No. 1/University to direct the Respondent No. 2/College to conduct extra classes,

it would be appropriate to refer to the relevant provisions of the Rules of Legal Education, Bar Council of India Rules:-

10. Semester system

The course leading to either degree in law, unitary or on integrated double degree, shall be conducted in semester system in not less than 15 weeks for

unitary degree course or not less than 18 weeks in double degree integrated course with not less than 30 class-hours per week including tutorials, moot

room exercise and seminars provided there shall be at least 24 lecture hours per week.Â Provided further that in case of specialized and/or honours

law courses there shall be not less than 36 classhours per week including seminar, moot court and tutorial classes and 30 minimum lecture hours per

week.

Provided further that Universities are free to adopt trimester system with appropriate division of courses per trimester with each of the trimester not

less than 12 weeks. 12. End Semester Test No student of any of the degree

program shall be allowed to take the end semester test in a subject if the student concerned has not attended minimum of 70% of the classes held in the subject concerned as also the moot court room exercises, tutorials and practical training conducted in the subject taken together.

Provided that if a student for any exceptional reasons fail to attend 70% of the classes held in any subject, the Dean of the University or the Principal

of the Centre of Legal Education , as the case may be, may allow the student to take the test if the student concerned attended at least 65% of the

classes held in the subject concerned and attended 70% of classes in all the subjects taken together. The similar power shall rest with the Vice

Chancellor or Director of a National Law University, or his authorized representative in the absence of the Dean of Law Provided further that a list of

such students allowed to take the test with reasons recorded be forwarded to the Bar Council of India.

Schedule III

18. Minimum weekly class program per subject (paper):

There shall be for each paper (with 4 credit) Four classhours for one hour duration each and one hour of tutorial/moot court/project work per week.

20. In deciding the aforementioned sole issue arising at this stage, the first and the foremost fact that needs to be noted is that the Respondent No.

1/University, after coming to a definite conclusion that the Respondent No. 2/College had conducted classes for a lesser number of days than as

mandated by the Respondent No. 1/University's academic calendar, had directed the Respondent No. 2/College to ensure that the said shortfall in

classes was made good by holding extra classes, including moot court room exercises, tutorials and practical training, for all the students who were

desirous of attending the same. However, instead of following the directives of the Respondent No. 1/University, the Respondent No. 2/College

without even informing the Respondent No. 1/College, sent the Expert Committee Report dated 21.02.2018 to the Respondent No. 3/BCI for its

comments/recommendations. While the Respondent No. 2/College has vehemently contended that it had kept the Respondent No. 1/University's

directives to implement the recommendations of the Expert Committee Report in abeyance in accordance with the Respondent No. 3/BCI 's advise

dated 24.03.2018, the Respondent No. 3/BCI has in turn contended that as per

the decision dated 25.05.2018 of its General Council,Â Â Â the

Respondent No. 1/University's directions to conduct extra classes after the concerned end-semester examinations have already concluded, is in the teeth of Rule 12 of the BCI Rules.

21. However, on a perusal of the record and in light of the submissions made by the learned counsel for the Respondent No. 3/BCI,Â I find that the

Respondent No. 3/BCI's observations in respect of the Expert Committee Report dated 21.02.2018 were unjustifiably not in compliance with the

principles of natural justice, since the decision dated 25.05.2018 of its General Council was passed without even giving the Respondent No.

1/University an opportunity of being heard. I am of the considered view that, after the Respondent No. 2/College had placed the Expert Committee

Report dated 21.02.2018 before the Respondent No. 3/BCI, there was nothing that precluded the Respondent No. 3/BCI from issuing a notice to the

Respondent No. 1/University to make a representation in respect of its acceptance of the said report and its consequent directions to the Respondent

No. 2/College to implement the recommendations contained therein. Therefore, in my opinion, the observations of the Respondent No. 3/BCI in its

meeting held on 25.05.2018 do not, at this stage, preclude me from directing the Respondent No. 2/College to implement the remedial measures

recommended in the Expert Committee Report dated 21.02.2018. In fact, after examining the said report, I find that the Committee, after giving an

adequate hearing to all the involved stakeholders, has given detailed reasons for its conclusions and recommendations and, therefore, I see no reason

to hold at this stage that the conclusions arrived at by the Committee are factually incorrect, as is sought to be contended by the Respondent No.

2/College. However, it remains to be seen whether there is anything on record that justifies an interim direction to the Respondent No. 2/College to

conduct 7 days of extra classes for the Applicants and all other students who wish to attend the same and make up the deficiency in their

attendance.Â

22. On a careful perusal of the decisions relied upon by Mr. Kumar, I find that it is an undisputed position that the BCI Rules are mandatory and ought

not to be relaxed in any manner. However, none of the decisions relied upon by Mr. Kumar are applicable to the facts of the present case, since the

issue in the present case is not whether the attendance criteria prescribed by the Bar Council of India is mandatory. The issue before the Court at this

stage is whether, in light of the Respondent No. 1/University's categorical finding that Respondent No. 2/College had not followed its academic

calendar, as also the Respondent No. 3/BCI's statement before this Court that the Respondent No. 2/College was also in violation of Rule 10 of the

BCI Rules, should this Court by way of an interim measure direct the Respondent No. 2/College to conduct 7 days of extra classes to help the

Applicants and other effected students to make up the deficiency in their attendance. In this regard, I find that the decisions relied upon by Ms.

Nandy, especially those delivered by the High Court of Kerala, emphasize the moral and legal obligation on the centers of legal education to abide by

the mandate of the BCI Rules to hold the prescribed number of class hours for its students. It cannot be emphasized enough that the observance of

the BCI Rules by centers of legal education is imperative to ensure and maintain the standards of legal education in India. In this regard, I can do no

better than reiterate the observations made by the High Court of Kerala in its decision dated 29.09.2015 in the case of Satheesh Kumar N. v.

Mahatma Gandhi University [WP(C) No. 28492/2015], the relevant paragraph 16 of which reads as under:-

16. Therefore the prescription of the minimum hours of lecture classes and holding of tutorials, moot court and seminars by the Bar Council of India

are to be scrupulously followed by the Universities. The above exercises are essential to chisel out the best in a law student many of whom are

destined to become lawyers, judicial officers, parliamentarians etc. The possible lag in the course is not an excuse for the Universities to commit

breach of the statutory rules and the classes cannot also be telescoped.

23. At this stage, it may also be appropriate to refer to paragraph 15 of the decision dated 25.11.2016 of the Kerala High Court in Mohanan M.E. v.

University of Calicut [2016 SCC OnLine Ker 38639], which reads as under:-

15. We caution the authorities that if they are blind or they pretend to be purblind to these violations, the courts would be constrained and forced to

step in to redress the legitimate issues raised by the student community. We cannot obviously be occluded in our vision when such patent instances of

violations are brought to our notice and we caution the Colleges and Universities

that if such transgressions are still continuing and placed to our notice, we would be compelled to issue such appropriate orders in future to ensure that our next generation would not suffer on account of the cavalier or lackadaisical attitude adopted by them in such matters of great importance.

24. Thus, what emerges is that, despite various Courts being repeatedly constrained to observe that centers of legal education must adhere to the number of classes prescribed in the BCI Rules, law colleges are blatantly ignoring the requirements therein, thus leading to situations like the present

case where, as against the 648 hours of class mandated by the BCI Rules, only about 35% of the classes have been conducted by the Respondent

No. 2/College. It has been contended by the Respondent No. 2/College that as per the academic calendar of Respondent No. 1/University, to which

the Respondent No. 2/College is affiliated, it is only required to conduct a much lesser number of classes than those prescribed under the BCI Rules.

The fallacy in this plea is evident from the fact that the Respondent No. 1/University's prescription of a minimum number of classes cannot override or

abrogate the mandate of the Bar Council of India's statutory rules. Even otherwise, if the Respondent No. 2/College genuinely believed that it is the

Respondent No. 1/University which is the master of the academic calendar and the final authority on the manner in which the classes are to be held, it

would have abided by the Respondent No. 1/University's directives to implement the recommendations made in the Expert Committee Report dated

21.02.2018, instead of forwarding the said report to the Respondent No. 3/BCI for its recommendations thereon. If the Respondent No. 1/University

was the final authority on how the Respondent No. 2/College should conduct its classes, there would have been no reason for the Respondent No.

2/College to approach the Respondent No. 3/BCI in the first place, and then keep the directives of the Respondent No. 1/University in abeyance in

accordance with the advice of the Respondent No. 3/BCI. Furthermore, there would be no reason for the Respondent No. 3/BCI to undertake an

examination of the Expert Committee Report dated 21.02.2018 and advise the Respondent No. 2/College not to comply with the Respondent No.

1/University's directions to implement the same. For the aforementioned reasons, I find that the Respondent No. 2/College itself was aware of the

need to comply with the mandate of the BCI Rules, which it has admittedly not

done in the present case.

25. Thus, what further emerges is that the Respondent No. 2 is clearly guilty of holding only about 35% classes viz-a-viz the requirement as prescribed

in the BCI Rules, and it is a clear case where the Applicants were deprived of an opportunity to attend the requisite number of classes to meet the

prescribed attendance criteria, since the classes they had a legitimate expectation of attending, were just not held in the first place. Therefore, in my

considered opinion, not only do the Applicants/Petitioners have a prima facie case, but they have also been able to establish that any further delay in

implementing the Expert Committee Report, would cause irreparable loss and prejudice to them, since they have already given their tenth semester

examinations and are all at the threshold of completing their law degrees. Thus, I find that the balance of convenience is heavily in favour of the

Applicants/Petitioners, and I deem it appropriate to direct the Respondent No. 2/ College to conduct 7 days of extra classes/tutorials for all those

students who wish to attend the same and make up the shortfall in their attendance on account of the Respondent No. 2/College's infractions in not

abiding by the Respondent No. 1/University's academic calendar as also the mandate of Rule 10 of the BCI Rules.

26. In coming to a conclusion that the recommendations of the Expert Committee are prima facie just and fair, I am fortified by the decision dated

14.06.2012 of the Karnataka High Court in the case of Kum. Radhika Garg v. The Director, Pre-University Board (Karnataka) and Anr. [WP(C) No.

5973/2012], wherein the Court, while placing reliance on the decision of the Supreme Court in State of Tamil Nadu and Anr. v. S.V. Bratheep (Minor)

and Anr. [(2004) 4 SCC 513], directed the respondents therein to conduct extra-classes for the petitioner in that case, so as to enable her to make up

the deficiency in her attendance. The relevant paragraph 27(a) of the decision dated 14.06.2012 in the case of Kum. Radhika Garg (supra) reads as

under:-

Â 21. To meet the ends of justice, I dispose of this petition with the following order:-

a) The second respondent is directed to hold the special classes for the petitioner from morning till evening on all the days including Saturdays,

Sundays and public holidays till the date of the commencement of the

supplementary examination. In giving this direction, I am fortified by a Division Bench judgment of Madras High Court, as extracted in the Honâ??ble Supreme Courtâ??s judgment in the case of STATE OF TAMIL NADU

AND ANOTHER V. S.V. BRATHEEP (MINOR) AND ANOTHER reported in (2004)4 SCC 513, while examining the issue of eligibility to

admission. The relevant portion of the said judgment is extracted hereinbelow:

Â Â Â Â Â â??3. Since the learned counsel appearing for Anna University pointed out that admissions at this late juncture are likely to affect the

University Attendance Regulations, we also direct that the shortage in the attendance of such students shall be compensated by holding special classes

on Saturdays, Sundays and other holidays. Learned counsel appearing on behalf of the engineering institutions have undertaken that teaching staff who

are engaged for holding such special classes shall be paid extra and that no amount shall be collected by the institutions from the students.â??

27. It has been contended by Mr. Kumar that this Court ought not be guided by sympathy while passing interlocutory orders in academic matter such

as the present case. However, in my opinion, it is not any sympathetic consideration but considerations of equity that drive my decision to issue the

aforesaid directions to the Respondent No. 2/College. I find that, while there can be no doubt about the fact that students should ideally meet the

requisite attendance criteria prior to giving their examinations, in the instant case, where the Respondent No. 1/University only found out about the

Respondent No. 2/College's infractions at a belated stage and it had, therefore, tried to devise a mechanism that would be fair to all stakeholders

involved, there is no reason as to why the remedial measures recommended by it should not be implemented, especially when they do not adversely

prejudice any of the parties involved.

28. However, keeping in view the fact that the present petition raises a very important issue regarding the role of the Bar Council of India in ensuring

and maintaining the high standards of legal education in India, the main petition needs to be heard at an early date. In my considered opinion, the

following issues arise for the urgent consideration of this Court:

I. What is the Bar Council of India expected to do when its recognized law colleges do not abide by the Rules of Legal Education, Bar Council of

India Rules and do not hold the mandatory number of class hours prescribed

thereunder?

II. Does the Bar Council of India have the power to conduct suo motu inspections of centers of legal education under the Rules of Legal Education,

Bar Council of India Rules, so as to ensure the compliance of the said rules by law colleges and universities across the country?

III. Does the Bar Council of India have the power to make ex-parte observations in respect of a University's specific findings with regard to its

affiliated colleges?

29. Before concluding, I do earnestly hope that the Respondent No. 3/BCI, which is an expert body comprising of distinguished legal experts, will give

its thoughtful consideration to the aforesaid issues and take pro-active measures to monitor the standards of legal education being maintained by

accredited law colleges/universities across the country. The Respondent No. 3 should also give its thoughtful considerations to the issue whether, in

the circumstances of the present case as noted hereinabove, it would be appropriate for an Apex Body like the Bar Council of India to discard the

findings and recommendations of the Respondent No. 1/University, without giving any opportunity to the Respondent no.1/University to even explain

the reasons for arriving at the factual bases for issuing the aforementioned directions to the Respondent No. 2/College, at whose behest the report

was placed before the Respondent No. 3/BCI.

30. For the aforementioned reasons, the Application is allowed with a direction to the Respondent No. 1/University and Respondent No. 2/College to

conduct within ten days, 7 days of extra classes/tutorials for all those students desirous of attending the same. It is further directed that, within 5 days

of the conclusion of the aforesaid extra classes/tutorials, the Respondent Nos. 1 and 2 shall provisionally recalculate the attendance of the students for

the ninth semester on the basis of the recommendations made in the Expert Committee Report dated 21.02.2018, by including the attendance for the

aforesaid extra classes/tutorials.