
(2014) 03 P&H CK 0193
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 25455 of 2013 (O and M)

Aditya Pratap Duggal and others

APPELLANT

Vs

Panjab University and others

RESPONDENT

Date of Decision : 31-03-2014

Acts Referred:

Advocates Act, 1961 — Section 60 7(1)(i)
Punjab University Act, 1947 — Section 10

Citation : (2014) 03 P&H CK 0193

Hon'ble Judges : G.S. Sandhawalia, J

Bench : Single Bench

Advocate : Chetan Mittal, Mr. Puneet Gupta in CWP No. 25455 of 2013, Mr. R.K. Sharma in CWP No. 4297 of 2014, Ms. Gargi Kumar in CWP No. 4358 of 2014, Mr. K.S. Khehar in CWP No. 4360 of 2014, Mr. Gurcharan Dass in CWP No. 4367 of 2014, Mr. Vipin Mahajan in CWP No. 4367 of 2014, Mr. D.S. Patwalia and Mr. B.S. Patwalia, for the caveators, for the Appellant; Amar Vivek, Advocate for University, for the Respondent

Final Decision : Allowed

Judgement

G.S. Sandhawalia, J.—This order shall dispose of a bunch of 5 writ petitions bearing CWP Nos. 25455 of 2013 (O & M), 4297, 4358, 4360 & 4367 (O & M) of 2014, involving common questions of facts and law. However, for dictating order, the facts have been taken from CWP No. 25455 of 2013, titled Aditya Pratap Duggal & others Vs. Punjab University & others (hereinafter referred to as the "Lead case") and CWP No. 4360 of 2014 titled Samar Pratap Singh Ahluwalia Vs. The Panjab University & another. The dispute in the present bunch of writ petitions pertain to the admission which is to be granted against the 60 additional seats which have been sanctioned by the Bar Council of India (hereinafter referred to as the "BCI") vide letter dated 24.10.2013 (Annexure P1) in the B.Com. L.L.B. (Hons.) 5 year Integrated Course, conducted by the respondent-University. The three petitioners, in the lead case, approached this Court by filing the said writ petition, praying that the respondents should made

admissions to the said Course against the sanctioned enhanced intake capacity of 60 seats since the respondents had failed to make admissions for the academic year 2013-14, inspite of the fact that the competent authority (BCI) had granted the permission, after conducting the inspection. Counsel for the University had put in appearance on 16.12.2013. In its first short affidavit dated 17.01.2014, by the Registrar of the respondent-University, the plea taken was that admission process for the academic session 2013-14 had started in March, 2013. In anticipation of the approval from the BCI, 180 seats were advertised, 120 for B.A. L.L.B. (Hons.) and 60 seats for the B.Com. L.L.B. (Hons.) course. The final approval from the BCI was received on 31.10.2013, by email dated 24.10.2013 and received on 18.11.2013 and therefore, it was not possible to admit 60 more students (one section) to the said Course, at that juncture. Intimation was sent to the BCI that the University Institute of Legal Studies (for short, the "UILS") was continuing with only two sections of B.A. L.L.B. (Hons.) Course and of one section of B.Com. L.L.B. (Hons.), for the academic session 2013-14. It was admitted that the request had been made by the petitioners for admission to the said course which was duly considered by the teaching staff and it duly resolved that it was not possible as the classes of the 1st Semester were already over. In para Nos. 16 & 17 of the affidavit, it was submitted that the petitioners are already studying in B.A. L.L.B./B.Com. L.L.B. (Hons.) elsewhere and may be admitted to 2nd Semester, purely on merit, if directed by this Court. Relevant paras read as under:

16 & 17. That it is admitted that the Bar Council of India extended the intake of seats. Reiterating the contents of the Preliminary Submissions, it is however, submitted that the petitioners who are already studying B.A. L.L.B./B.Com. L.L.B. (Hons.) elsewhere may be admitted to Semester-II purely on merit if directed by this Hon'ble Court. The candidates mentioned in Para no. 17 of the Writ Petition were admitted by the Panjab University on the direction of this Hon'ble Court.

2. This Court, keeping in view the above affidavit, directed the University to take a decision as to how the additional 60 seats were to be utilized. Relevant portion of the order dated 28.01.2014 read as under:

Thus, it is apparent that the University is not taking any categorical decision as to how the additional 60 seats are to be utilized, as to whether fresh admission is to be done against the said seats or inter se migration is to be permitted. Admittedly, once the 60 seats have been sanctioned by the Bar Council of India and non-utilization of the said seats would also lead to a waste of seats for the present year, it is imperative that the University should take a decision as to how the said additional sanctioned intake is to be utilized. Let the said decision be taken within a week and the same be placed on record before the next date of hearing.

Adjourned to 04.02.2014.

Copy of this order be supplied to counsel for respondents No. 1 to 3, under the

signatures of Special Secretary of this Court.

3. Thereafter, another affidavit dated 04.02.2014 was filed that it did not seem feasible to admit students in the 2nd Semester, at this stage, as the classes have already commenced but since the UILS had the requisite facility and infrastructure, students of the affiliated colleges/regional centres, who had qualified the University Entrance Test and were pursuing the 5 year Integrated Course, would be permitted to join the UILS in the current session by way of inter se migration, as per rules. The plea taken was that it would not be possible to re-deliver the already delivered lectures of ongoing semester or to arrange any special remedial courses for such students. Relevant paragraph of the affidavit read as under:

That the teaching for the 2nd semester of B.Com L.L.B. (Hons.) has already commenced on 14th January and on an average 11 lectures have been delivered up to 01.02.2014. The classes of the 2nd Semester shall be (tentatively) over on 15th April, 2014 and examination shall start from 22.04.2014, therefore it does not seem feasible to admit fresh candidates in the 2nd semester at this stage. University School of Legal Studies, Panjab University has got requisite facility and infrastructure and the additional 60 seats in the B.Com L.L.B. (Hons.) will be filled w.e.f. academic session 2014-15. However, the students of the affiliated colleges/Regional Centres who have qualified the University Entrance test and are already pursuing 5 years integrated law courses would be permitted to join the University School of Legal Studies in the current session by way of inter se migration, as per rules, on the condition that it will not be possible to re-deliver the already delivered lectures of ongoing semester or to arrange any special remedial courses for such students in the current semester.

4. In the lead case, CM No. 999 of 2014 had been filed, for impleadment by M/s. Rayat College of Law, who was opposing the said process on the ground that the said process would lead to exodus from the said Institute and as per rules, inter se migration was not permitted in the 2nd Semester. It is pertinent to mention that the said application was subsequently withdrawn on 25.03.2014. Thereafter, additional affidavit was filed by the Registrar of the respondent-University on 18.02.2014 wherein, it was averred that no seat would be allowed to go waste and the approval for session 2013-14 had been received and the seat may be offered to the students in the 2nd Semester, on the basis of merit. It was deposed that the offering of seats to the eligible students of affiliated institutes would not be against the rules and regulations of the BCI. It was also mentioned that it had requisite teaching faculty and the requisite infrastructure as 2 Assistant Professors of Commerce and 1 Assistant Professor of Economics, had been appointed recently. On 18.02.2014, this Court had left open to the University to comply with the earlier order dated 28.01.2014 as it was noticed that no decision had been taken and only affidavits had been filed. Relevant portion of the order reads as under:

It will also be open to the said proposed respondent to file written statement

before the next date in order to avoid any delay. It is also open to the University to comply with the order dated 28.1.2014 whereby it was mentioned that a decision should be taken which apparently has not been done and only affidavits have been filed.

Adjourned to 26.02.2014.

5. The Academic Committee of the UILS, in its decision dated 25.02.2014, decided to fill up the 60 extra seats on the strength of the observations made by this Court whereby it sought to only consider students who had appeared and qualified in the P.U. B.A./B.Com. L.L.B. (Hons.) Entrance Test conducted in May, 2013 and accordingly, issued advertisement on 25.02.2014 whereby the counselling was to be done on 10.03.2014. The decision of the Academic Committee reads as under:

The members felt that since this direction has come when the 2nd semester of B.Com. L.L.B. (Hons.) is already in its mid way so the candidates who could be admitted at this juncture should specifically fulfill the conditions in consonance with already operating Panjab University Rules and Regulations regarding admission to the said course. The members felt that at this juncture, it is not feasible and practical to make the fresh admissions to the 2nd semester. Accordingly, it was resolved that the following conditions shall be made applicable to the candidates seeking admission/promotion to the 2nd semester of B.Com. L.L.B. (Hons.) 5 years Integrated Course.

1. The candidate should have appeared and qualified P.U.B.A./B.Com. L.L.B. (Hons.) Entrance Test conducted in May, 2013.

2. The admission shall be made on the basis of final merit list prepared by Panjab University as per Rules.

3. Only those candidates would be taken directly to the 2nd semester who fulfill the basis requirements for promotion to 2nd semester of B.Com. L.L.B. (Hons.) 5 years Integrated course as incorporated in Rule 5(ii) of Rules Regulating Admission and Promotion to B.A./B.Com. L.L.B. (Hons.) 5 years Integrated Course at 116 of Hand Book of Information 2013 which reads as under:

Promotion from 1st to 2nd, 3rd to 4th, 5th to 6th, 7th to 8th and 9th to 10th semesters shall be allowed, if a student has fulfilled the attendance and other requirements, even though he has failed to appear in the examination for the semester respectively from which he is being promoted.

4. The difference of papers studied by the said candidate in the 1st semester of his law course should not be more than 2 papers in comparison to the papers being taught in 1st semester of B.Com. L.L.B. (Hons.) of Panjab University.

5. That the lectures attended by the said candidates in the previous institute shall be counted while determining the eligibility of such candidates for appearing in the 2nd semester examination (if admitted).

It is pertinent to mention here that the Bar Council of India's approval to Panjab University to run 4 sections of B.Com. L.L.B. (Hons.) is itself self speaking that the University has sufficient infrastructure to cater to the needs of these additional 60 seats. It was further resolved that the University will issue the advertisement for admission against these additional seats on 27.2.2014 and the admissions will take place on 10.3.2014 as per the directions of the Hon'ble Court.

6. The case of the University was that the said decision was approved by the Vice Chancellor, who is the Executive Officer u/s 10 of the Punjab University Act, 1947 and therefore, the said decision was liable to be ratified at a subsequent date and it had been taken in view of the exigencies of the situation since the academic session for 2nd Semester of 2013 was coming to an end. In pursuance of the said decision, advertisement was issued, whereby admission was restricted to those candidates whose name appeared in the merit list of the Entrance Test, conducted in May, 2013 and who had qualified to appear/appeared in the 1st Semester examinations of the 5 year Integrated Course from any of the recognized centre, for the legal education. The relevant para read as under:

b] Since it is admission to 2nd Semester of the said Course, so only a candidate whose name appears in the above said "Final Merit List" and who has qualified to appear/appeared in 1st Semester examination of 5 Years Integrated Law Course in any of the recognized Centre for Legal Education shall be eligible for such admission.

c] If a candidate from a recognized Centre of Legal Education, other than that of or affiliated to Panjab University, seeks this admission then the difference between the papers for which he has appeared in 1st Semester examination of the Integrated Law Course in his erstwhile institution and the papers for which a candidate is required to appear in 1st Semester of B.Com. L.L.B. [Hons.] 5 Years Integrated Course of Panjab University should not be more than 2.

7. Resultantly, CWP No. 4343 of 2014 titled The Rayat College of Law Vs. Panjab University & others was filed by M/s. Rayat College of Law and also CWP Nos. 4297, 4358, 4360 & 4367 of 2014 came to the filed by various students who had appeared in the Eligibility Test of May, 2013 but were not pursuing any 5 year Course from any recognized centre for legal education. The petitioners' grouse, in their writ petitions was that the condition which had been incorporated by the Academic Committee of restricting the admissions to the students who had pursued the Law Course in any recognized Centre for Legal Education was bad and adherence should be to the eligibility conditions, as prescribed in the contents of the Handbook in the prospectus and should be made from those who have appeared in the entrance test, on the basis of merit. It is also pertinent to mention that CWP No. 4343 of 2014, filed by the Rayat College has been withdrawn on 25.03.2014 alongwith the application for impleadment in the lead case. However, counsel for the Caveator-Intervener, Mr. Patwalia prayed that he be given permission to intervene as his interests were affected and accordingly,

the said permission was granted on the said date.

8. Accordingly, the issue came up before this Court that the admission was being done on the basis of the merit list of 1007 students of the test held in May, 2013 and some of them who were higher in the merit had been kept out of consideration merely because they were not pursuing Law courses. Counsel for the University conceded to issue fresh advertisement on account of the fact that meritorious students who were not studying Law, had been left out from the zone of consideration. Relevant portion of the order dated 07.03.2014 reads as under:

Counsel for the respondent-University has fairly conceded that in such circumstances, the University will issue a fresh advertisement, which will specifically clarify that it will be open to all students who had appeared in the entrance test of 2013 and who figure in the merit list, which has been prepared by respondent No. 2, shall be open to apply for the counselling, to be held on 10.03.2014 onwards. It is, however, made clear that the University shall ensure that selected candidates shall not be granted admission in respondent No. 2-University and shall not be allowed to attend classes, till further orders. The factum of the pendency of the litigation shall also be mentioned in the advertisement and that the counselling shall be subject to the decision of the writ petition.

Much has been, of course, argued on the locus of the petitioner-Institute in CWP No. 4343 of 2014, by counsel for the caveators. However, since reply is yet to be filed and the case is to be decided on merits, one will not go into the merits of the case, as of now. A prima facie case has been made out and in view of that, an interim direction is being issued. It is further made clear that this order is interim and totally provisional and will be subject matter of final decision.

Notice of motion for 19.03.2014.

Mr. Amar Vivek accepts notice on behalf of respondents No. 1 to 3-University, in all cases.

9. In pursuance of the above order, the University, thereafter, conducted counselling on 10/18.03.2014 and drew up a tentative merit list. This Court, thereafter, passed order dated 19.03.2014, directing the University that an affidavit be filed as to how the University proposes to deal with the admission of the students since certain students had not pursued Law courses and would not be eligible for promotion to 3rd Semester. Relevant portion of the order dated 19.03.2014 reads as under:

Counsel for respondent Nos. 1 to 3 has submitted that in pursuance of the interim directions of this Court, counselling has taken place and a tentative merit list has been drawn up. He states that a comprehensive affidavit will be filed before the next date of hearing along with advance copies to the counsels opposite specifying as to which category of students have now qualified in the

merit list and how the University proposes to deal with the admission of the said students, who were otherwise eligible in view of the entrance test, which had been held in the month of May, 2013, but during the intervening period might not have pursued law courses or subjects with commerce background, and therefore, might not be eligible for admission as per the prospectus and the rules and regulations.

10. On 25.03.2014, affidavit dated 24.03.2014 was filed, giving details as to how the 60 seats were to be filled since only 3 students from Rayat College of Law had been mentioned in the provisional admission list, drawn up and one student figured in the waiting list. The Rayat College withdrew both, its writ petition as well as the application for impleadment, filed in the lead case, on 25.03.2014, as its apprehension of exodus of students taking place became unfounded. The chart prepared by the University went on to show that 42 students had qualified, who hailed from various law Institutes whereas 18 students had not pursued any Law related subjects. The University also, in its last affidavit, attached the decision of the Academic Council of UIILS, whereby apprehensions were expressed about how the 18 students, who had not pursued any Law related courses, were to be adjusted. The 2 options were put-forth before this Court and it was submitted that there would be no difficulty in adjusting 42 students but regarding the 18 students, there would be difficulty as they had not studied Law related subjects. It was submitted that since all of the 42 students had studied elsewhere, they could appear for the 2nd Semester examinations, which were to take place in the month of April/May, 2014. Para No. 10 of the chart prepared in the affidavit dated 24.03.2014 reads as under:

*From Rayat College of Law.

Along with the affidavit, the proceedings of the meeting of the Academic Committee held on 20.03.2014, devising the plan for organising classes, as per the provisional selection list, was attached and the following 2 options were put-forth:

1. Those candidates could be asked to join the B.Com. L.L.B. (Hons.) on the basis of the present "provisional selection list" in the next academic session and complete the 5 years as per the BCI and PU Rules. As otherwise also, these candidates, if they would have competed next time for B.Com. L.L.B. (Hons.) have to waste their one year. They have to appear for the entrance test and figure on the merit list, whereas with holding of the present counseling, as a matter of right, they will be admitted in the next session over and above 120 sanctioned seats for B.Com. L.L.B. (Hons.), as they will be adjusted against the present 60 seats.

Or

2. These candidates could be admitted now in the 2nd semester and asked to qualify the 1st semester later on, as the court has earlier ordered in Pankuri Sundra's case also. The said candidate is now in the 10th semester and has

submitted an undertaking that she will attend the classes of the 1st semester thereafter. However, the fear is that if this alternative (2) will be adopted, it will create an anomaly for 18 candidates and in future others may also ask for direct admission to 2nd semester on one pretext or the other and quote this case as precedent. This is going to be a big stigma on the reputation of the UIIS and Panjab University both of which have emerged as premier educational institutes at national and international levels.

The committee noted that earlier also, the Hon'ble High Court in CWP No. 2404 of 2012, directed Kajal Sharma to be promoted to 5th semester without attending the classes of 4th semester. She was thereby ordered to attend the classes of the 4th semester to validly qualify B.A. L.L.B. (Hons.). However, without attending the 4th semester classes, she deliberately claimed that Attendance-cum-Character certificate from the Institute, which was inadvertently issued to her as she appeared for all the examinations and only failed to attend the classes of 4th semester as per the orders of the High Court. There is a possibility that these candidates also may take the advantage of this technical defect and quote Kajal Sharma's case as a precedent. Now, she has filed an another writ petition in the Hon'ble Court claiming that she be allowed to complete her L.L.M. Degree and thereafter, she will attend the classes of 4th semester.

In view of the above, the Academic Committee felt that the choice for these 18 candidates, who want to pursue B.Com. L.L.B. (Hons.) 5 years Integrated Course is either to lose one semester and two semesters. In the interest of the students, institute as well as for maintenance of the sanctity of the Rules of BCI, UGC and PU, it is advisable that this chunk of 18 students be admitted now, but they will join classes of B.Com. L.L.B. (Hons.) in the next academic session i.e. July, 2014 as a matter of right. Because otherwise also, the University is not going to relax the promotion rules for them and the examination for 2nd semester is commencing from 15th April, 2014. It will not be feasible for the candidates to qualify that examination and fulfill the eligibility conditions for promotion to 3rd semester. Again they will have to appear for 2nd semester as well as 1st semester in the next academic session which will be virtually a loss of one year.

It was resolved that these alternatives be submitted for the consideration of the Hon'ble Court for further necessary directions.

11. Counsel for the petitioners, in the subsequently filed writ petitions and Mr. Patwalia, for the Caveator-Intervener, all vehemently opposed the decision of the respondent-University, on various grounds. It was submitted by Mr. Khehar that the admissions in the 2nd Semester amounted to migration, which was not permissible, as per Clause 10(b) of the Prospectus itself. It was pointed out that only those students were eligible to seek migration who had cleared all the papers for the examinations in which they had appeared in the Institutions from which migration is to be sought and some of those students who were now being considered were not eligible as per Clause 10(f) of the prospectus as they had

not cleared all the examinations and therefore, the admission was violative of the migration rules. His client having secured rank 96 could not be denied admission for this year and persons with lower rank, who had studied law, would benefit. Similar argument was raised by Mr. R.K. Sharma, who submitted that the petitioner was at Serial No. 90, as per the merit list but had not joined Law course and had joined B.Com. and, thus, would lose a year if not accommodated now, by holding extra classes. Similarly, Ms. Gargi Kumar, counsel for Varun Parkash Chaudhary and Aditya Partap Duggal (who filed second petition) also took the same plea that they were at rank 225 & 106, respectively, in the merit list and were higher in merit, but the resultant effect would be that they would lose a year, as they had not pursued the Law course. Similarly, Mr. Gurcharan Dass, counsel for the petitioner (in CWP No. 4367 of 2014) pleaded that the petitioner had secured rank at Serial No. 862 and that admission should be open to all and the University should make adequate arrangements. One Hitesh Chopra filed CM No. 3616 of 2014 in CWP No. 4367 of 2014 and Mr. Vipin Mahajan, Advocate, appearing on his behalf, also pleaded that he had rank 282 and was in the waiting list, drawn up on counselling held on 18.03.2013 and also prayed that the decision taken by the University on 25.02.2014, restricting the candidates who had pursued the legal courses, should be upheld and persons who had opted for courses, other than law, should not be allowed to be given admission.

12. Mr. Patwalia, counsel appearing for the caveator/intervener, namely, Adityajit S. Chadha, who was figuring at Serial No. 319 in the merit list and on the wait list, submitted that the 18 students, who had failed to pursue Law course, would have no locus standi to seek admission as they had opted to do courses other than law and though they might be higher in merit in the eligibility condition but as on date, were not eligible to take admission in the 2nd Semester of the 5 year Integrated Course. It was submitted that the Bar Council of India Rules were being violated and they were a complete code in themselves. Vide the proposed decision of the University, 18 students were to be granted admission, over and above the sanctioned seats of 120 students of B.Com. (Hons.), for the academic year 2014, which is not permissible and reference was made to Clause (c) of the Eligibility criteria of the Prospectus which provided that if there was shortage of lectures in the 1st semester, the candidate had to apply afresh for admission again through Entrance Test. He also submitted that the order dated 25.02.2014, whereby the Academic Committee of the UILS had taken a decision, had never been set aside and the principle of carry-forward of seats was not available to the next year. It was submitted by Sr. Counsel for the petitioners in the lead case that the petitioners were higher in merit having secured rank of 164 & 168 and had already pursued law courses and therefore, the University should admit them in 2nd semester.

13. Counsel for the University, on the other hand, submitted that the purpose was not to waste the seats and at this stage, since the University had delayed in taking a decision, the students should not suffer but it was not possible to hold

lectures and the supplementary examinations were to start from 22nd April, 2014 and thereafter, the regular examinations were to take place in May, 2014 and the Entrance Test was also to be held in the month of May, 2014, for the coming academic session 2014-15. He, accordingly, submitted that the concession granted earlier, before this Court, was on the basis that merit was the only basis and necessary permission would be taken from the BCI and the teacher-student ratio would be maintained.

14. After hearing counsel for the parties, this Court is of the opinion that admittedly, though there is no legal rights of the petitioners (in CWP No. 25455 of 2013) to force the University to take a decision since the 60 seats were never the subject matter of the Prospectus, which was issued in the year 2013, but there is no denying a fact that permission has been granted at a belated stage, by the BCI. Similarly, petitioners, in the other connected cases, who are aggrieved by the decision of the University to grant admission only to students who had pursued Law course also never had any legal right against those additional 60 seats. They were only applying against the seats for the 120 seats of B.A. L.L.B. (Hons.) and 60 seats of B.Com. L.L.B. (Hons.) and thus, could not claim any right against the said seats which were sanctioned much later and were not part and parcel of the prospectus. It is settled principle of law that mandamus can only be granted where there is statutory legal right which can be enforced and in the absence of any such right, the University is well within its jurisdiction to devise any special and extraordinary procedure so that the additional seats which have been sanctioned do not go waste. However, once the infrastructure and facilities are in place and the students are wanting to take admission against the additional 60 seats and the Academic Committee of the UILS has decided to fill up the seats in principal, it would be in the interest of one and all that the said seats do not go waste. The necessary exercise has already been conducted for the year 2013 and the merit list has been prepared. Once the Academic Committee of the UILS has taken a decision that the seats were liable to be filled, then to let the said seats go waste, would not be appropriate. A Division Bench of this Court in Association of Education Colleges Vs. Haryana State 2009 (1) SCT 157 examined the issue whereby a large number of seats for the B.Ed. Course were going vacant and the University was opposing the said prayer for admission on the ground that it was at a belated stage and the students had not appeared in the entrance test. It was noticed that the seats were available in the Colleges and were supported by the infrastructural requirements stipulated by the NCTE, which was a valuable resource and should not be allowed to go waste, subject to the fulfillment of the academic standards. Accordingly, it was held that the students should be allowed to be admitted on the basis of merit who had appeared in the qualifying examinations, without holding any independent Common Entrance Test. Relevant portion of the judgment reads as under:

14. The next question then is whether this Court should permit admissions or let the available seats go waste, Which out of the two options would serve the ends

of justice is the only question that detained us. If one were to adopt a pedantic and hyper technical approach, one could say that admissions need not be made at this stage as the University's apprehension of dilution of academic standards and disturbance of academic calendar should not be disregarded. The wisdom behind that approach however, appears out-weighted by the compelling need to avoid the wastage of seats and denial of an opportunity to eligible students to get admitted against the same. It is true that academic standard needs to be maintained and academic decisions by expert bodies respected as far as possible, but it is equally true that when admissions are delayed, a certain amount of adjustment can and ought to be made by the Institutions as also the affiliating University. These adjustments do not, however, necessarily dilute the academic standard as is apprehended by the University in the instant case. The Institutions are ready and capable of making up the requisite number of working days by holding special classes for the students, who have joined late. The admission granted at this stage will not also require the University to compromise on the 40 days practice teaching or the percentage of lectures, which a student must have for being declared eligible for taking the examination. It is noteworthy that candidates admitted to a session has to perform by the same standard as is required of the other candidates in order to be declared successful in the examination. If a student, otherwise admitted late, is unable to come up to the standard of the University, he/she will be declared unsuccessful. Super-added to the above is the fact that the number of students, who may even now seek admissions, may not be very large to require holding of any test to determine their inter-se merit for grant of admission. The argument advanced by Mr. Gupta that the Colleges may have to hold independent CET for granting admissions, which may delay the completion of admission process, is in our opinion, misplaced. Such a situation could arise only where the number of students applying is more than the number of seats available in the Institutions. That, however, is not the position in the instant case. Even so, the apprehension that lesser merited students may be admitted while ignoring meritorious students, can be allayed by directing that the Institutions shall grant admissions strictly in accordance with the merit in the qualifying examination, which is one of the recognized norms for granting such admissions.

The Apex Court, in a three Judge Bench judgment, in *State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya & others* 2006(9) SCC 1 has also held to similar effect that once recognition has been granted by the NCTE, the same would be relevant and the disaffiliation by the University would not be relevant. The order of the Bar Council of India provided that the approval was for 3 years, i.e., for the academic years 2011-12, 2012-13 and 2013-14 and the meeting was held only on 24.10.2013. Relevant portion of the said approval reads as under:

Legal Education Committee at its meeting held on 29th September 2013 considered the inspection report of the above mentioned college. After consideration, Committee made the following recommendations:-

The Legal Education Committee considered the recommendations of the Standing Committee. After consideration, the Committee is of the view that Punjab University, Punjab be recognized u/s 7(1)(i) of the Advocates Act, 1961 for awarding law degrees in respect of five year B.Com. L.L.B. Course and granted temporary approval of affiliation to its Department of Law for imparting five year BA. L.L.B. as well as five year B.Com. L.L.B. course for a period of three years i.e. for the academic years 2011-12, 2012-13 and 2013-14 with an intake of two sections of 60 students to each section in each course subject to the following conditions:-

1. The University management is directed to establish the Legal Aid Centre as per Clause-11, Schedule-III of Rule-11 of the Part-IV of the Legal Education Rules-2008.
2. University should ensure the payment of salary to teachers as per Rules 22 Schedule III, Part IV of BCI Rules.
3. The institution is directed to upgrade the library by investing Rs. 1,00,000/- per year.
4. Teacher Student ratio shall be 1:40

Institution should submit affidavit in compliance to the above conditions within six weeks.

The above recommendations were considered by the Bar Council of India at its meeting held on 29th September, 2013 and accepted the same.

The College shall also comply with the following Rule of the Bar Council of India (Clause (iii) and Explanation 2 of Schedule IV in Part IV of new rules of the Bar Council of India):-

Whenever approval of affiliation is granted to the Centres of Legal Education, it shall be necessary for the Centres of Legal Education to deposit Rupees Two Lakh in shape of guarantee to fulfil all the norms of the Bar Council of India. The same shall be liable to be forfeited if norms are not complied with and same shall carry no interest.

The approval of affiliation now granted by the Bar Council of India is subject to the payment of guarantee amount as mentioned in the above rule.

College authorities are also required to apply to the Bar Council of India for further extension of approval of affiliation six months in advance before expiry of the period of approval of affiliation granted by the Bar Council of India i.e. on or before 31st December, 2013 failing which a late fee will be charged.

15. The College authorities were required to meet certain requirements and apply for extension of approval. There is no dispute of the fact that the College authorities have complied with the said directions and also deposited the amount before the required date. In similar circumstances, a Division Bench of this Court

in Nancy College of Education & another Vs. Punjabi University, Patiala & others 2007 (6) SLR 62 held that once the recognition had been granted by the National Council for Teachers Education (NCTE), it would not be appropriate for the affiliating body to disaffiliate the Institute and make the recognition redundant. The Apex Court in Asha Vs. Pt. B.D. Sharma University of Health Sciences and Others, has held that merit is the only basis on which admission should be granted. The argument of the counsel for the petitioners, in the subsequent cases and for the caveator/intervener that only students who were doing the Law degrees should be entitled for admission, is without any basis. As noticed above, there is no such legal right of the petitioners to contend that they had applied against the said additional seats which never were the subject matter of the prospectus. The said seats are bonus which have come up and the petitioners have no such legal or vested right in them. The University has only taken a decision to fill the seats and to utilize its infrastructure and in such circumstances, the petitioners and the counsel for the caveator/intervener cannot plead that they had any legal vested right of admission on the basis of the fact that they are higher in merit or on the basis that they are studying Law. The University has framed a criteria that the admission should be made only on merit, on the basis of the eligibility test, conducted in May, 2013. Initially, a decision was taken to exclude candidates who had appeared in the test but who had not pursued Law courses, which was, subsequently, modified by this Court, subject to final decision. Now, as noticed above, the tentative list has been prepared but the nod from this Court is awaited and two proposals have been projected.

16. At this stage, to direct the UILS to arrange for extra classes to ensure that the 18 students who had not been pursuing Law course, who are otherwise entitled on the basis of their merit, is not possible, in the facts and circumstances of the present case. It is admitted fact that the classes of the 2nd semester would be over by 15.04.2014 and the examinations are to start from 22.04.2014. In the short span of two weeks, the students will not be able to do the course for 2 semesters and any such direction would amount to diluting the academic standards, which is not permissible as noticed by the Division Bench in Association of Education Colleges (supra). It is also important to note that students who are doing B.A. L.L.B. (Hons.) course and have all common subjects with the B.Com. L.L.B. (Hons.), with only one subject of Political Science, being different, instead of Accounts. The position is not similar, in any manner, to the students who are doing B.Com. and rather they only have 2 common subjects namely, English & Accounts and therefore, the submission that they are in a position to be given admission in the 2nd semester, cannot be accepted. This would be clear from the chart depicting the commonality of the subjects inter se the three courses which reads as under:

It is also settled principle that decision of equivalency in academic matters is best left to the experts. As noticed above, the Academic Committee of the UILS has deliberated this issue several times and decided in the peculiar facts and

circumstances of the present case that admissions are to be granted on the basis of the merit of the Entrance Test conducted in May, 2013 and the requirement for undergoing the Law course would facilitate admissions in 2nd semester. The said decision, thus, cannot be faulted, in any manner and it is not for this Court to go into the said question, as has been held by the Apex Court in All India Council for Technical Education Vs. Surinder Kumar Dhawan and Others, wherein the Hon'ble Apex Court has held as under:

This is a classic case where an educational course has been created and continued merely by the fiat of the court, without any prior statutory or academic evaluation or assessment or acceptance. Granting approval for a new course or programme requires examination of various academic/technical facets which can only be done by an expert body like AICTE. This function cannot obviously be taken over or discharged by courts. In this case, for example, by a mandamus of the court, a bridge course was permitted for four year Advance Diploma holders who had passed the entry level examination of 10+2 with PCM subjects. Thereafter, by another mandamus in another case, what was a one time measure was extended for several years and was also extended to Post Diploma holders. Again by another mandamus, it was extended to those who had passed only 10+1 examination instead of the required minimum of 10+2 examination. Each direction was obviously intended to give relief to students who wanted to better their career prospects, purely as an ad hoc measure. But together they lead to an unintended dilution of educational standards, adversely affecting the standards and quality of engineering degree courses. Courts should guard against such forays in the field of education.

17. Accordingly, this Court is of the opinion that the procedure, which has now been followed, is just and justified, in the peculiar facts and circumstances of the case and accordingly, CWP No. 25455 of 2013, filed by Aditya Pratap Duggal & others, is allowed and the respondent-University is directed to admit the 42 students, who are studying Law courses, as per merit list. However, to ensure that no seat should go waste, it is directed that the students, who are in the merit list, which has been drawn up, shall be told to deposit the admission fees by 03.04.2014 and in case the admission fees is not deposited, then the students, who are on the waiting list, shall be asked to deposit the admission fees by 07.04.2014. Regarding the 18 students who are not doing any Law course, the option will be available to them as to whether they want to pursue the said course, next year, by sacrificing one academic year. In case the said 18 students deposit the full admission fees for 1st & 2nd Semesters, as mentioned above, their right to get admission from the next session, i.e., from July, 2014, shall be preserved. In case they do not deposit the fees by 03.04.2014, the students in the waiting list will be offered admission. It is pertinent to mention that there are as many as 11 students on the waiting list, who are studying Law and who will be benefited in case some of the 18 students drop out and therefore, the seats would not go waste. It is also made clear that the University shall ensure that necessary permission and sanction is got accorded from the BCI

so that there is no violation of the rules and regulations and no student is put to unnecessary inconvenience. With the abovesaid directions, CWP No. 25455 of 2013 is allowed and in view of the observations made above, CWP Nos. 4297, 4358, 4360 & 4367 of 2014, stand dismissed.