

(1997) 09 AP CK 0003

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 24852, 27773 and 27780 of 1996 and 3338, 6877 and 14458 etc. of 1997 and W.A. No. 439 of 1997

C.M. Balaraman

APPELLANT

Vs

Registrar, Osmania University and Others

RESPONDENT

Date of Decision : 16-09-1997

Acts Referred:

Advocates Act, 1961 — Section 15
Bar Council of India Rules, 1975 — Rule 17, 18

Citation : AIR 1998 AP 105 : (1997) 6 ALD 289 : (1997) 5 ALT 437

Hon'ble Judges : P.S. Mishra, C.J.; J. Chelameswar, J

Bench : Division Bench

Advocate : R. Sudha Rani, for the Appellant; K. Ramakantha Reddy, S.C. for Respondent No. 1, V. Srinivas, for Respondent No. 18, M. Venkateswari, for Respondent No. 11, K. Ashok Reddy, for Respondent No. 17, None appeared for Respondent No. 10, C.V. Vinitha Reddy, for Respondents 12 to 16, B. Sudhakara Reddy, G.P. for Higher Education for Respondent No. 2, K. Raji Reddy and K.G. Kannabhiran, for the Respondent

Judgement

J. Chelameswar, J.—The Bar Council of India addressed a letter dated 11-11-1996 to the Private Secretary to the Hon'ble the Chief Justice, High Court of Andhra Pradesh, Hyderabad, along with an enclosure another letter dated 8-11-1996 addressed to the Registrar, Osmania University, Hyderabad, for placing the same before the Hon'ble the Chief Justice. The content of the enclosure is that, it refers to some earlier correspondence between the Bar Council of India and Osmania University about the poor state of affairs and standards maintained by most of the law colleges affiliated to the Osmania University. It was further observed by the Bar Council of India in its letter as follows :

The Colleges have not been keen to improve the basic requirements like proper and sufficient accommodation, reasonably good library, sufficient number of qualified full time teachers, enforcement of attendance by students and required

number of hours of teaching. Whenever the Bar Council of India visited the Law Colleges under the Osmania University, it has found the Law colleges not following the norms laid down by the Bar Council of India. It has been the experience of the Bar Council of India that certain colleges, though they were informed sufficiently in advance about the inspection, purposely avoided the inspection team, fully knowing that if inspection was carried out, their colleges would not survive. These facts were brought to the notice of the University some time back. The Colleges under Osmania University have not improved their conditions since their establishment and sufficient time has been given to them for improvement. In spite of utter failure of the Colleges to comply with the norms of the Bar Council of India, the University seems to be encouraging Law Colleges by way of granting affiliation indiscriminately. It is rather surprising as well as disgusting that even those Colleges which have evaded the inspection teams of the Bar Council of India have been granted affiliation in disregard of the intimation given by the Bar Council of India.

The Colleges avoided facing the Inspection teams are :

1. Lokamanya Tilak Law Colleges, Hyd.
2. Rajiv Gandhi Memorial Law College, Secunderabad.
3. Sardar Patel Law College, Hyderabad.

More shocking is the action of the University in granting fresh affiliation to the three Law Colleges viz., (1) K. Naray an Reddy Law College, Hyd., (2) Ponugoti Madhav Rao Law College, Hyd. and (3) Ambedkar Law College, Hyderabad, which have been refused approval of affiliation by the Bar Council of India. Therefore your argument that the matter will be reviewed for the next academic year does not hold water at least in respect of these colleges and the Bar Council of India is dismayed at the action of the University granting fresh affiliation for the year 1996-97 and strongly disapproves the action of the University.

There is no justification for granting affiliation to such colleges as Universities have to enforce strict discipline in law colleges and see that the colleges under them are complying with the norms of imparting legal education in letter and spirit. But in the instant case, the University itself is encouraging Law Colleges to flout the rules and regulations and it is highly regrettable. The advice of the Bar Council of India to your University to instruct the Convenor of lawcet to not to allot any students to certain law colleges was done, with the sole intention that law colleges which have been flouting the norms of the Bar Council of India should not be allowed to impart legal education because the biggest casualty will be the students undergoing law studies in such colleges. However the Bar Council of India regrets that your University has paid scant regards to the opinion of the Bar Council of India in respect to certain law colleges under your University and the Bar Council of India is thoroughly dismayed by the action of the University of granting affiliation to all the Law Colleges without exception totally disregarding the views of the Bar Council of India.

Under these circumstances, the Bar Council of India may have to look afresh about the recognition of the Law Degree awarded by your University for the purpose of enrolment as advocates."

(Copy of this letter was marked to the Hon''ble the Chief Justice, High Court of Andhra Pradesh, High Court, Hyderabad.)

2. The said letter was treated as a Writ Petition and notice was issued to the Osmania University and Bar Council of Andhra Pradesh. The University filed a counter affidavit dated 27-11-1996 explain ing its stand with regard to the various law colleges affiliated to it. It appears from the said counter that on 12-3-1996 there was a meeting of the V ice-Chancel for Registrar and Head of the Department of Law with regard to the affairs of the law colleges affiliated to the Osmania University which are, according to the counter 43 in number.

3. On 19-3-1996 University issued a circular to all the law colleges affiliated to the University saying that a three men Committee would inspect all the law colleges from 25-3-1996. Later by another letter, it was rescheduled to be inspected from 1-4-1996. In the meanwhile on complaints received during the examinations, the Academic Audit Cell of the University conducted an enquiry into the affairs of the law colleges and submitted a report on 11-6-1996. The Committee constituted earlier also submitted a report. The substance of the report appears to be that the colleges which were inspected by the Committee were divided into four categories viz.. A, B, C and D and in those categories there were 6, 7, 5 and 10 colleges each respectively.

4. The counter-affidavit of the University is silent as to what happened with reference to the other colleges affiliated to the University.

5. The said classification is made on the basis or the varying degrees of compliance of the law colleges with the applicable norms of the University. Bar Council of India and State Government. On 23-7-1996, the Standing Committee of the Osmania University met and considered the report of the three-men Committee and decided to extend provisional affiliation upto academic year 1996-97, subject to the condition that the law colleges must make up the deficiencies pointed out by the three-men Committee. Of course, five law colleges which were placed in the "D" category by the three-men Committee were given show-cause notice as to why they should not be disaffiliated forthwith as their further continuance is detrimental to the legal education. These colleges are :

1. Jawaharlal Nehru Law College, Nizamabad.
2. Rumbai Bhim Rao Law College.
3. Shankerji Memorial Law College.
4. Sardar Patel Law College (Eve), and
5. Ravindranath Tagore Law College.

In the meanwhile on 20-9-1996 the Bar Council of India wrote to the Osmania University that an inspection team constituted by the Bar Council of India inspected 8 colleges affiliated to the University and 3 law colleges evaded the said inspection. They are :

1. Lokamanya Tilak Law College.
2. Rajiv Gandhi Memorial Law College.
3. Sardar Patel Law College. The letter further said :

Under those circumstances, you are requested to not to allot any students to these colleges. The Inspection Reports of the 8 Law Colleges mentioned above are under preparation. This is for your information and appropriate action.

6. The said letter was followed by another letter dated 1-10-1996 from the Bar Council of India. The said letter says :

The Bar Council of India proposed to refuse approval of affiliation of the following seven law colleges and the inspection reports are being prepared and the same will be sent to the University for comments, in due course;

1. Gangaram Gogia Law College.
2. Vidyapeet Law College.
3. K. V. Ranga Reddy Institute of Law.
4. New Layola Law College.
5. Shankarji Memorial Law College.
6. Panineeya Law College.
7. R. G. R. Sidhanti Law College.

The Inspection team has recommended approval of affiliation of only one college i.e. College of Law for Women by Andhra Mahila Sabha.

Under those circumstances, the University is advised to instruct the Convenor of the LAWCET to not to allot any student to the above ten Law Colleges Excepting College of Law for Women run by Andhra Mahila Sabha. The above Law Colleges have been functioning without seeking continuance of approval of affiliation of the Bar Council of India. It may be recalled that it was decided at the Law Ministers' Conference that the process of affiliation or continuance of affiliation of Law Colleges should start from the Bar Council of India by seeking prior approval of affiliation or continuance of approval of affiliation of the Council.

Since the above Law Colleges are facing the prospects of disapproval of affiliation by the Bar Council of India, it is advisable and necessary that no student should be admitted in the said Law Colleges to avoid any hardships to the students who are seeking admission in the professional. Law Course in your University.

This is for your immediate attention and appropriate action in the matter.

7. The Osmania University addressed a letter dated 23-9-1996 to the Bar Council of India which is in substance a reply to the earlier letter of the Bar Council of India dated 20-9-1996. Noting the content of the letter of the Osmania University, the Bar Council of India addressed another letter dated 8-11-1996 which letter is made an enclosure to the letter addressed to this Honourable Court which is taken up as a writ petition.

8. In view of the abovementioned facts, when the matter came up before this Honourable Court, on 27-11-1996 it was directed as an interim measure as follows :

It is a fit case, in our opinion, for issuing a clear direction to the respondents to allot students who are successful in LAW CET examination only to such law colleges which are duly inspected by the Bar Council of India and are cleared by the Bar Council of India. It is also made clear that the University shall not permit students studying in any such law college which does not have the approval of the Bar Council of India along with students who are allotted to the colleges which have the approval of the Bar Council of India.

Let the Bar Council of the State of Andhra Pradesh be impleaded as party respondent.

Until further orders, the newly added respondent-Bar Council of the State of Andhra Pradesh shall not enrol any student who has Law Degree from the Osmania University unless the institution from which he has been sent up for the examination is approved by the Bar Council of India. Put up after 3 weeks.

9. While passing the above interim order it was directed that the Bar Council of Andhra Pradesh be impleaded as third respondent to this writ petition and the matter be listed again after three weeks.

10. The matter was again taken up on 19-12-1996. A representation was made by the Standing Counsel for Osmania University that it had already taken steps in consultation with the Bar Council of India for the standardisation of law education and allotment of students only to such institutions which are approved by the Bar Council of India. The learned Standing Counsel prayed for two months time to complete the said process. This Honourable Court passed a further direction in the said circumstances as follows :

It is, however, made clear that it does not in any manner preclude the Bar Council of India and/or any College of Institution imparting education in Law to seek approval of the Bar Council of India in the meanwhile and in case such approval is accorded by the Bar Council of India, for regular allotment of students to such institutions, it is, however, made clear that no student shall be allotted to any College imparting training in Law for the purposes of the examinations conducted by the Universities of the State to enable the students to qualify for being enrolled as advocates without the approval of the Bar Council

and if any such allotment is made by the University and the College or the Institution concerned is not one approved by the Bar Council, and students shall not be entitled to be enrolled as advocates. They shall be entitled to seek compensation at the rate of Rs. 20,00,000/-each from the University.

The order dated 27-11-1996 addressed to the Bar Council, State of Andhra Pradesh shall remain in force. It shall, however, open to any of the Law College affected by the order and/or the Universities in the State to implead themselves as party-respondents.

The Secretary, Legal Services Authority is directed to appoint a counsel to appear for the petitioner-Bar Council of India.

11. On 28-1-1997, one B. Madhusudana Reddy filed an implead petition contending that by virtue of the order dated 19-12-1996 mentioned above, the Bar Council of Andhra Pradesh is not issuing applications for enrolment to the students who passed law degree from Osmania University, irrespective of the colleges from which the students seeking enrolment are educated and therefore it is prayed the Honourable Court to vacate the interim order dated 19-12-1996 and the matter was taken upon 14-12-1997. The said implead petition was ordered and the Honourable Court modified its earlier order dated 19-12-1996 as follows :

Heard.

On the facts as stated, we are inclined to permit the intervention petition and to hear the petitioners herein as respondents in the writ petition on the question whether such of the students who were admitted prior to the controversy and have since completed their degree course of studies can be denied enrolment as apprentices and/or as Advocates under the Advocates Act, 1961. Also heard on the question of any interim directions.

After hearing Mr. K. G. Kannabhiran, learned counsel for the Bar Council of the State, we are inclined to order, pending final disposal of the writ petition, that the students who have completed their course of study and are declared to have passed 3 years/5 years law examination conducted by the Osmania University shall be enrolled as apprentices on condition that they shall give an undertaking in writing that in case the State Bar Council shall conduct any examination before enrolment, they shall appear in the said examination and when successful in the said examination alone, they shall be eligible for being enrolled as Advocates. It is ordered accordingly.

12. The matter was taken up on 17-2-1997 and on that day the matter was directed to be posted for final hearing.

13. Number of persons have filed implead petitions praying this Honourable Court to implead them as parties-respondents in the above-mentioned writ petition, claiming to be persons seeking admission into the various law colleges and alleging broadly, that by virtue of the inaction of the Bar Council of India at

an earlier point of time, the present slate of affairs has been created and students were deprived of their opportunity to obtain legal education and therefore sought appropriate directions to the Bar Council of India to complete the process of approval or otherwise of each of the law colleges in question. Each one of the implead petitioners alleged with reference to the individual law colleges mentioned in the implead petitions that the said law colleges satisfied all the requirements as per the norms prescribed by the Bar Council of India and that each of this college obtained a letter approving the affiliation of the said college from the Bar Council of India with reference to some academic year or the other and that those colleges sought the renewal of such an approval for the subsequent academic years, but the Bar Council of India did not pass any order either way in this regard.

14. Two societies viz.. Raja Guru Ramalingam Siddhanthi Educational Society and Layola Model Educational Society also filed implead petitions. They submit that the action of the Bar Council of India in directing the Osmania University not to allot any students to the named colleges is arbitrary and violative of Article 14 of the Indian-Constitution and that they were all material times fulfilled the requirements of standards stipulated by the Bar Council of India or the Osmania University for the purpose of getting the necessary affiliation and approval.

15. Number of writ petitions came to filed before this Honourable Court which were also directed to be clubbed along with writ petition No. 24852 of 1996 and also a Writ Appeal No. 439 of 1997 was filed against the judgment of a Single Judge of this Honourable Court in Writ Petition No. 2774 of 1989 dated 22-11-1996.

16. Of these matters, writ petition No. 3338 of 1997 filed on 19-2-1997. Writ Petition No. 5002 of 1997 filed in 11-3-1997 and writ petition No. 14458 of 1997 filed on 7-7-1997, pertain to the Padala Rama Reddy College of Law.

i) Of which the first of the above writ petitions was filed by the College questioning the legality of the proceedings of the Convenor of Lawcet dated 4-1-1997 and 6-2-1997 stopping the process of admissions for the academic year 1996-97.

ii) The second writ petition No. 5002 of 1997 is filed by twelve persons claiming to be the students seeking admission into Padala Ram Reddy Law College substantially for the same relief as in the Writ Petition No. 338 of 1997.

Even according to the report of the Legal Education Committee of the Bar Council of India which inspected the law colleges found that the Management of Padala Rama Reddy Law College is not giving U. G. C., scales to the faculty members. The Committee did not recommend permanent approval of approval of affiliation of this law college, but, recommended that the approval of the affiliation to the law college be extended by a period of three years.

iii) Writ Petition No. 12744 of 1997 was filed on 19-6-1997 by Ponugoti Madhava

Rao Law College, Secunderabad questioning the order of the Bar Council of India dated 20-5-1997 whereunder it was intimated to the petitioner that the Legal Education Committee reported that the application for extension of approval of affiliation to this law college is to be rejected from the academic year 1993-94 onwards. The said recommendation was accepted by the Bar Council of India at its meeting held on 10th and 11th of May 1997.

iv) Writ Petition No. 27780 of 1996 was filed by the abovementioned Ponugoti Madhava Rao Law College questioning an earlier order of the Bar Council of India dated 6-6-1996. This is also a communication intimating that, the Bar Council of India accepted the recommendations of the Legal Education Committee to reject the continuance of the approval of the affiliation to this law college.

v) Writ Petition No. 11593 of 1997 was filed by four persons claiming to be the students seeking admission into the Nizamabad Law College for the academic year 1996-97. It is contended that though the Nizamabad Law College has a valid approval of affiliation by the Bar Council of India, the admission process for the academic year 1996-97 has been unlawfully stopped by the Convenor, LAW CET (the second respondent). It may be pointed out here that as far as Nizamabad Law College is concerned, the Legal Education Committee recommended the extension of approval of affiliation to this law college for three years.

vi) Writ Petition No. 27773 of 1996 was filed on 23-12-1996 by the Raja Guru Ramalingam Siddhanthi Educational Society which runs a law college in Secunderabad for a declaration that the proposed disaffiliation of the petitioner society's law college is illegal.

vii) Writ Petition No. 13470 of 1997 was filed by the abovementioned society on 26-6-1997 questioning the proceedings of the Bar Council of India dated 19-5-1997 whereunder it was communicated to the petitioner's society by the Bar Council of India that, pursuant to the recommendations of the legal Education Committee that the application of the petitioner's law college be rejected with effect from the academic year 1993-94 and the same recommendation was accepted by the Bar Council of India in its meeting held on 10th and 11th of May 1997. The Legal Education Committee which inspected the law college found various deficiencies as can be seen from the report of the said Committee and consequently the Committee recommended to disaffiliate the petitioner's law college forthwith.

viii) Writ Petition No. 7374 of 1997 was filed by Lokamanya Tilak Law College seeking a Writ in the nature of Mandamus directing the Bar Council of India to grant permanent approval of affiliation. It appears from the report of the Legal Education Committee of the Bar Council of India that this law college avoided inspection by them and therefore the Committee recommended that its affiliation be forthwith disapproved.

ix) Writ Petition No. 6877 of 1997 was filed by the same law college for

substantially the same relief as prayed in Writ Petition No. 7374 of 1997.

x) Writ Appeal No. 439 of 1997 was filed by Shadan Educational Society aggrieved by the judgment of the learned Single Judge in Writ Petition No, 2774 of 1989 dated 22-11-1996. The said Writ Petition was filed seeking a direction to the Osmania University and State Government to grant necessary affiliation to the petitioner's law college.

17. The Bar Council of India, as a body entrusted with the responsibility of maintaining the standards in legal education caused inspection of the various law colleges affiliated to the Osmania University and having found that the State of affairs in the law colleges affiliated to the Osmania University is not upto the mark communicated by its letter dated 20-9-1996 to the Osmania University as follows :

The Bar Council of India had arranged an inspection of the following eleven Law Colleges in the City of Hyderabad on 13th & 14th Sept., 1996 :--

1. Lokamanya Tilak Law College, Hyderabad.
2. Gangaram Gogia Law College, Hyderabad.
3. Rajiv Gandhi Memorial Law College, Secunderabad.
4. Vidyapeet Law College, Hyderabad.
5. Sardar Patel Law College, Hyderabad.
6. K. V. Ranga Reddy Institute of Law, Hyderabad.
7. New Layola Law College, Hyderabad.
8. Shankerji Memorial Law College, Hyderabad.
9. Panineeya Law College, Hyderabad.
10. R. G. R. Siddhanthi Law College, Secunderabad.
11. Andhra Mahila Sabha Law College, Hyderabad.

The Inspection Teams consisting of the Chairman and members of the Bar Council of India carried out the inspection. Out of the eleven colleges to which intimation was given about the proposed inspection, only the following Eight law colleges could be inspected.

1. Gangaram Gogia Law College.
2. Vidya Peet Law College.
3. K. V. Ranga Reddy Institute of Law.
4. New Layola Law College.
5. Shankerji Memorial Law College.

6. Panineeya Law College.
7. R. G. R. Siddhanti Law College.
8. Andhra Mahila Sabha Law College.

The following 3 Law Colleges evaded the inspection though the inspection team visited the colleges on the said date :

1. Lokamanya Tilak Law College, Hyderabad.
2. Rajiv Gandhi Memorial Law College.
3. Sardar Patel Law College, Hyderabad.

Under these circumstances you are requested to not to allot any students to these colleges. The Inspection Reports of the 8 Law Colleges mentioned above are under preparation. This is for your information and appropriate action.

18. The Osmania University by its letter dated 23-10-1996 replied as follows, for the various reasons given by the University in the said letter.

In the circumstances, the University has already advised the Convenor to make allotment of students to these colleges for this academic year 1996-97 and if any unfavourable report of the Commission caused by the Bar Council of India are communicated to the University, the matter will be reviewed for the next academic year i.e., 1997-98.

19. Not satisfied with the attitude of the Osmania University, the Bar Council of India addressed another letter dated 11-11-1996 to the Osmania University which has already been referred to earlier in our judgment whereunder the Bar Council of India strongly disapproved the attitude of the Osmania University in the matter of granting affiliations to these various law colleges marking a copy of the same to this Honourable Court.

20. The Secretary to the Bar Council of India filed an affidavit dated 25-4-1997 wherein he stated that initially on the 13th and 14th of September 1996, the inspection of eleven law colleges affiliated to the Osmania University was arranged. In fact when the inspection was sought to be made, three law colleges evaded inspection and the inspection team could only inspect eight law colleges. The eight law colleges, inspected were :

1. Gangaram Gogia Law College.
2. Vidyapeet Law College.
3. K. V. Rahga Reddy Industries of Law.
4. New Layola Law College.
5. Sardar Pateil Law College, Hyderabad.
6. Panineeya Law College.

7. R.G.R. Siddhanti Law College.

8. College of Law for Women by Andhra Mahila Sabha.

and the three law colleges which avoided inspection were :

1. Lokniana Tilak Law College, Hyderabad.

2. Rajiv Gandhi Memorial Law College, Secunderabad.

3. Shankerji Memorial Law College, Hyderabad.

It was after this inspection the first letter of the Bar Council of India dated 20-9-1996 referred to It is categorically mentioned in the affidavit filed by the Secretary to the Bar Council of India that the above-mentioned law colleges did not have continuance of approval of affiliation by the Bar Council of India as they failed to apply to the Bar Council of Indian time. It was further mentioned in the affidavit, that once again in the month of January, 1997 the Legal Education Committee of Bar Council of India inspected twelve law college affiliated to the Osmania University. They are. :

1. Durga Law College, Mahboob Nagar.

2. Padala Rama Reddy Law College, Hyderabad.

3. Nizamabad Law College, Nizamabad.

4. Pendekanti Law College, Hyderabad.

5. Women's Law College, Hyderabad.

6. B. R. Ambedkar Law College, Hyderabad.

7. K. N. R. Law College, Secunderabad.

8. Rajiv Gandhi Memorial Law College, Hyderabad.

9. Ponugoti Madhav Rao Law College, Secunderabad.

10. Y. P. R. Law College, Hyderabad.

11. Tagore Law College, Sanga Reddy.

12. Jawahar Lal Nehru Law College, Nizamabad.

21. Except Rajiv Gandhi Memorial Law College mentioned above, rest of the eleven law colleges were not inspected on the earlier occasion. The Legal Education Committee of the Bar Council of India at its meeting held on 18th and 19th of April 1997 considered both the inspection reports mentioned above and it recommended continuance of approval of affiliation with respect to six of the law colleges mentioned above. They are :

1. Padala Rama Reddy Law College, Hyderabad.

2. Nizamabad Law College, Nizamabad.

3. Pendekanti Law College, Hyderabad.

4. Women's Law College, Hyderabad.

5. Ambedkar Law College, Hyderabad.

6. Mahatma Gandhi Law College, Hyderabad.

and with reference to sixteen law colleges, the said committee recommended disapproval of the continuance of affiliation. They are :

1. Vidyapeet Law College, Hyderabad (from 1993-94).

2. Ganga Ram Gogia Law College, Hyderabad (from 1994-95).

3. K. V. Ranga Reddy Law College, Hyderabad (from 1993-94).

4. Panineeya Law College, Hyderabad (from 1996-97).

5. New Layola Law College, Hyderabad (from 1993-94).

6. Sardar Patel Law College, Hyderabad (from 1993-94).

7. Lokmanya Tilak Law College, Hyderabad (from 1993-94).

8. Shankerji Memorial Law College, Hyderabad (from 1993-94).

9. R. G. R. Siddhanti Law College, Hyderabad (from 1993-94).

10. K. N. R. Law College, Secunderabad (from 1993-94).

11. Rajiv Gandhi Memorial Law College, Secunderabad (from 1993-94).

12. Ponugoti Law College, Secunderabad (from 1996-97).

13. Tagore Law College, Sanga Reddy (from 1993-94).

14. Jawahar Lal Nehru Law College, Nizamabad (from 1997-98).

15. Durga Law College, Nizambad (from 1997-98).

16. Y. P. R. Law College, Hyderabad (from 1993-94).

22. The said recommendations were to be considered by the Bar Council of India (as per the affidavit of the Bar Council of India) in the meeting which was scheduled to be held on 10th and 11th of May 1997.

23. The Bar Council of India filed another affidavit dated 21-6-1997. In the said affidavit it was asserted that in fact on 10th and 11th of May 1997, the meeting of the Bar Council of India was held and the recommendations made by the Legal Education Committee were considered in the meeting. Before taking a final decision in this regard, the Bar Council of India heard 8 persons representing Panineeya, Siddhanthi, Sri. K. N. R. Rajiv Gandhi, Lokmanya Tilak, P. N. R., Y. P. R. and Sardar Patel Law Colleges. Even after hearing the representatives of the various law colleges, the Bar Council of India did not see any reason to reject the

recommendations of the Legal Education Committee except in the case of Panineeya Law College. With reference to Panineeya Law College, the Bar Council of India thought it fit to postpone its final decision and decided to inspect the college again, provided the said college deposited the prescribed inspection fee within three days. Though the representative Sri Madhusudan of that college agreed for the suggestion, the inspection fee was not deposited as stipulated.

24. Two law colleges viz., Vijay Law College, Nalgonda and Ramabai Law College, Hyderabad figure in the second affidavit filed by the Bar Council of India. Even with reference to these law colleges, the Bar Council of India was not prepared to approve the affiliation.

25. The said affidavit also mentioned that there are four law colleges other than those mentioned earlier which have approval of affiliation. They are :

1. University College of Law. Osmania University, Hyderabad.
2. Shadan College of Law, Hyderabad.
3. Sultan-UI-Uloom Law College, Hyderabad.
4. Anwar-UI-Uloom College of Law, Hyderabad.

26. In the said affidavit, the Bar Council of India averred that on the 13th May of 1997, a letter was addressed to the Convenor of the Lawcet intimating that only eleven law colleges under Osmania University were having approval of affiliation for the academic year 1997-98.

The said law Colleges are :

1. The University College of Law, Hyd.
2. P.G. College of Law, Hyd.
3. Shadan College of Law, Hyd.
4. Sultan-UI-Uloom Law College, Hyd.
5. Anwar-UI-Uloom College of Law, Hyd.
6. Padala Rama Reddy Law College, Hyd.
7. Nizamabad Law College, Nizamabad.
8. Pendekanti Law College, Hyd.
9. Women's Law College, Hyd.
10. Dr. Ambedkar Law College, Hyd.
11. Mahatma Gandhi Law College, Hyd.

27. With reference to Padala Rama Reddy College of Law, the Bar Council of India stated as follows :

"That Padala Rama Reddy Law College was granted approval of affiliation initially in the year 1988 and no time limit was prescribed. Therefore it was treated as a college having approval of affiliation on permanent basis. However, this college was again inspected by the Bar Council of India on 17th Jan., 1997. The Inspection team then made an observation that "the Management is not giving UGC Scale to the Faculty Members, we are not inclined to give permanent approval of affiliation to this College. "The Legal Education Committee of the Bar Council of India at its meeting held on 18th/19th April, 1997 considered the inspection report and recommended that it may not grant permanent approval of affiliation to this College. But the Legal Education Committee recommended extension of approval of affiliation only for 2 years i.e. 1996-97 and 1997-98 to impart three year and 5 year law course. The Legal Education Committee also recommended that further extension of approval of affiliation may be considered only after the college is inspected afresh. The above recommendations of the Legal Education Committee was considered and accepted by the Bar Council of India at its meeting held on 10/11th May, 1997 and communications to the above effect have been sent to the Law College, Osmania University and State Bar Council of Andhra Pradesh for their information and appropriate action.

28. With reference to the Women's Law College affiliated to Andhra Mahila Sabha, the Bar Council of India stated as follows :

That as far as Women's Law College sponsored by Andhra Mahila Sabha is concerned, this College was initially granted approval of affiliation for the year 1991-92 and 1992-93. The College was again inspected by the Bar Council of India in the month of Sept., 1996. In the report of inspection it was stated that "the College authorities are trying sincerely to fulfil the norms prescribed by the Bar Council of India with regard to standards of Legal Education and, therefore, the inspection team-is of the opinion that the affiliation already granted to this college should be continued from 1993-94 for three years more and this College can be considered for granting further approval of affiliation at the end of three year period after another inspection." This report was placed before the Legal Education Committee meeting held on 2nd Nov., 96 and the above recommendations of the inspection team were placed before the Bar Council of India along with the recommendations of the Legal Education Committee at its meeting held on 16th and 17th Nov., 96 and the Bar Council of India accepted the same, and granted approval of affiliation to this College for three years starting from 1993-94. As recommended by the Legal Education Committee, the College was again inspected by the Bar Council of India on 31st March, 1997. The inspection report submitted by the inspection team states that we are satisfied about the teaching Faculty of the College. During the last inspection we observed that the teaching Faculty should be given UGC scales. We are happy that the Management has accepted our recommendations and now are paying UGC Scales to the teaching Faculty. The College is also maintaining a good library and we are satisfied about the condition and working hours of the library." The report further stated that though the librarian and the administrative staff are

not getting proper scale, as a whole the infrastructural facilities provided to the College seem to have been adequate for running the college.

29. With the abovementioned factual background, the following question emerges for consideration :

1. Whether the Bar Council of India was acting in accordance with law in directing the Osmania University not to allot any students for the academic year 1996-97 to the eleven law colleges?

30. The legislative field of education including technical education and medical education in the Universities etc., is the subject-matter of Entry 25 of the Concurrent List of the Seventh Schedule. Similarly legislative field pertaining to legal, medical and other professions is also a subject-matter of Entry 26 of Concurrent List of the Seventh Schedule. Therefore, the Advocates Act which is referable to both the Entries 25 and 26 is within the competence of the Parliament and the provisions thereof have an overriding effect over the provisions of any State law dealing with education or Universities, by virtue of Article 254 of the Constitution of India. The Bar Council of India being a body created by such a superior law made by the Parliament with specific functions assigned to it under the said law of the Parliament has the necessary legal authority to regulate the standards of legal education in accordance with the provisions of the Advocates Act and the Rules made thereunder.

31. At this stage it is necessary to examine the law governing the case.

32. The Bar Council of India is created u/s 4 of the Advocates Act, 1971. It is a body corporate with perpetual succession.

33. Section 7 of the Advocates Act prescribes the functions of the Bar Council of India. Sub-section (h) thereof provides that one of the functions of the Bar Council of India is :

to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils.

and Sub-section (i) provides :

to recognise Universities whose degree in law shall be qualification for enrolment as an Advocate and for that purpose to visit and inspect the Universities." Sub-section (m) empowers the Bar Council of India to do all other things necessary for discharging the aforesaid functions.

34. Section 15 of the Act empowers the Bar Council of India to make rules to carry out the purposes of Chapter II of the Advocates Act. To carry out the functions mentioned u/s 7(h) and (i), the Bar Council of India in exercise of its powers u/s 15 framed certain rules.

35. The said rules has been published in the Gazette of India on 6th September,

1975 in Part III, Part IV of the said rules deal with the standards of legal education and recognition of degrees in law or admission as Advocates.

Rule 17 reads as follows :

(1) No college after coming into force of these rules shall impart instruction in a course of study in law for enrolment as an Advocate unless its affiliation has been approved by the Bar Council of India.

(2) An existing law college shall not be competent to impart instruction in a course of study in law for enrolment as an advocate if the continuance of its affiliation is disapproved by the Bar Council of India.

Therefore, the affiliation of any college imparting education in law, to any University shall be approved by the Bar Council of India. Sub-rule (2) contemplates that the Bar Council of India can disapprove the affiliation of an existing law college. Rule 18 imposes a duty on the Bar Council of India to inspect, the law colleges which seek approval of affiliation, or existing law colleges. The inspection is to be by a Committee appointed for that purpose. It would be useful to extract the entire rule :

18. The Bar Council of India shall cause a law college affiliated or sought to be affiliated to a University to be inspected by a Committee to be appointed by it for the purpose, when :--

(a) An application for approval of affiliation of a new college received by it, or it suo motu decides in order to ensure that the standards of legal education laid down by it are being complied with.

(b) The application for approval of affiliation of a new college shall be addressed to the Secretary, Bar Council of India and shall be sent only through the Registrar of the University concerned with his recommendation and the application be accompanied by an inspection fee of Rupees 15,000/-.

(c) The college and/or the University concerned shall furnish all information to the Committee of inspection and the Bar Council of India as and when required and shall co-operate with them in every possible manner in the conduct of inspection.

(d) The Committee of inspection shall submit a detailed report to the Bar Council of India with a clear recommendation as to whether the affiliation of the new law college be approved/disapproved or that of an existing college be withdrawn/continued or that certain directions be given for improvements to be carried out within the period to be specified. The report shall incorporate the reasons for the recommendations.

(e) If an unfavourable report is received, the Secretary of the Bar Council of India shall cause a copy of the same to be sent to the Registrar of the University concerned for his comments and explanations, if any. Such comments and explanations on the report shall be sent by the Registrar of the University within

a period of six weeks from the date of the receipt of the communication.

(f) The Secretary of the Bar Council of India shall cause the report and comments/explanation of Registrar of the University concerned to be placed before the next meeting of the legal Education Committee of the Bar Council of India.

(g) If the Legal Education Committee is satisfied that the standards of legal education and/or the rules for affiliation or continuance of affiliation provided for these rules by the Bar Council of India are not complied with and/or that the courses of study, teaching and/or examination are not such as to secure to persons undergoing legal education, the knowledge and training requisite for the competent practice of law, the Legal Education Committee shall recommend to the Bar Council of India, the approval/disapproval of affiliation or continuance of affiliation as the case may be. The Legal Education Committee may also recommend that certain directions be given for improvements to be carried out within the period to be specified.

(h) This recommendation of the Legal Education Committee along with the accompanying papers shall be placed before the Bar Council of India for its decision. In case the Bar Council of India disagrees with or modifies the recommendation of the Legal Education Committee, it shall communicate its views to the Legal Education Committee for its consideration before arriving at a final decision in the matter.

(i) If the Council is of the opinion that affiliation of a college be disapproved it shall give notice of the proposed action to the Principal of the College and Registrar of the University to show cause within 30 days of the receipt of the notice and the Council shall take into consideration the reply received before making final orders.

(j) The decision of the Bar Council of India shall be communicated to the Registrar of the University. It shall be effective from the commencement of the next academic year following the date on which it is received by the Registrar of the University.

36. A perusal of the above rule and various clauses would show that the inspection contemplated can be made firstly before granting of approval of affiliation to new law college on an application received for that purpose by the Bar Council of India and secondly the Bar Council of India may suo motu, in order to ensure that the standards of legal education laid down are being complied with, cause an inspection.

37. In the background of the above statutory provisions, it follows that the Bar Council of India a body created to lay down and monitor standards of the legal education, has necessary power to take all such actions which are necessary for achieving the said objects.

38. In view of the categorical assertion by the Bar Council of India that the

abovementioned law colleges did not have continuance of approval of affiliation and in view of the prohibition contained in Rule 17(1) mentioned earlier, the Bar Council of India is perfectly justified in making such communication to the Osmania University.

39. The Bar Council of India as a body charged with responsibility of maintaining the standards of Legal Education has not only power to regulate the various aspects of Legal Education, but also owes a duty to the public, more particularly to the legal profession, to see that the sacred obligation entrusted to it is well-discharged. The role of lawyers, Legal Education and Courts in a democratic constitution set up is too well-known to be mentioned here. Apart from that, knowledge of law would be a great asset for administrators and legislators in discharging their constitutional duties. That being so, can this country really afford law college which are ill-equipped, ill-motivated and ill-functioning ? It is the legal responsibility of the Bar Council of India under the Advocates Act and Rules to constantly keep a watch on the institutions imparting Legal Education. That is why Rule 17 declares that the approval of affiliation to an institution imparting Legal Education has to be obtained from the Bar Council of India. Such approval would be granted as can be seen from the rules, only on the Bar Council of India being satisfied that the institution seeking such an approval has all the necessary infrastructure to effectively impart Legal Education. All these law colleges which have now been declared by the Bar Council of India to be unfit to survive in the field of Legal Education were given approval of affiliation for a limited period hoping that within the period they would equip themselves with all necessary infrastructure as stipulated under the Bar Council of India Rules.

40. These law colleges, instead of fulfilling the stipulated conditions, in most of the cases did not even seek continuance of approval of affiliation from the Bar Council of India. In most of the cases it was only after show cause notice was issued, such applications were made to the Bar Council of India. Apparently the requirement of the approval of the affiliation by the Bar Council of India was not taken very seriously by these law colleges. It is really pathetic to notice that these law colleges inspected by the Bar Council of India were found to be most ill-equipped, to discharge the duty of imparting Legal Education to the students even after half a decade of their existence either with or without approval of affiliation.

41. The role of the Osmania University, in granting affiliation and continuance of such affiliation without any regard for the careers of the students' community and the objects for which the University was established is more unwholesome, to say the least. The letter of the Registrar of the Osmania University dated 23-10-1996 addressed to the Secretary to the Bar Council of India wherein he sought to expound the legal position resulting from the various clauses of Rule 18 reads :

Here I wish to draw your attention to the Bar Council of India Rules wherein it has been clearly stated in the Clause 13(a) of Section (b) that the Bar Council of

India shall cause an inspection by a Committee to be appointed by it and if the report received by it, is unfavourable the Secretary of the Bar Council of India will send copy of the same to the Registrar of the University concerned for his comments and explanations, if any, and such comments and explanations on the report will have to be sent by the Registrar to the Bar Council of India within a period of six weeks from the date of receipt of its communication.

Further, in Clause-13 (J), it is stated that the decision of the Bar Council of India shall be communicated to the Registrar of the University and it shall be effective from the commencement of the next academic year following the date on which it is received by the Registrar of the University. No such communication on the report of the Inspection caused by the Bar Council of India has been received so far by the Registrar to offer his comments. Moreover, even if the comments of the Inspection Commission is unfavourable, the effect of such a comment will have effect on the functioning of the colleges in that academic year.

Since the University has already granted provisional affiliation for the academic year 1996-97 subject to fulfilment of the conditions to be communicated to the University by the second week of December 1996, the request made by you in the letter cited under reference to instruct the Convenor of the LAWCET, not to allot any students for this academic year 1996-97 to the 10 colleges stated in your letter go contrary to the provision of rules made in the Bar Council of India. Further, the University has already made admissions of students in 5 years integrated law course for the academic year 1996-97." The Registrar would have been well-advised to consult a lawyer before embarking upon any such exposition of law. A plain reading of Rule 17 shows that no college is entitled to impart Legal Education "unless its affiliation has been approved by the Bar Council of India. "The Registrar ought to have verified whether these law colleges to which the provisional affiliation for the academic year 1996-97 was granted by the Osmania University were having the approval of affiliation by the Bar Council of India. It is bad enough on the pan of the Osmania University to have granted such provisional affiliation to the law colleges which did not meet the standards laid down by the Bar Council of India (very wisely the Osmania University did not place before us the standards set up by it for the purpose of granting affiliation to any law colleges.) What is worse is that it did not even care to check up whether these law colleges had any continuance approval of affiliation from the Bar Council of India. Clause (a) of Rule 18 of the Bar Council of India Rules on which the Registrar very strongly relied upon in his letter dated 23-10-1996 applies only to a case where the approval of Bar Council of India is sought in accordance with the rules, by making an application by the concerned law college. Here are colleges which never cared to make such an application. The Osmania University does not appear to have bothered at all about these matters leaving the students allotted to these law colleges to their fate.

42. Coming to the problem of the students :

There are four aspects which are to be dealt with :

(1) With reference to the students allotted to and studying or completed their law course from any one of those affiliated colleges whose affiliation has been approved by the Bar Council of India as indicated earlier in our judgment, there is no problem.

(2) With reference to the students who have completed their course of law from such colleges whose affiliation has not been continued :

The fact remains that rightly or wrongly they have completed their course of study in law, though the concerned institution did not have approval of affiliation from the Bar Council of India. Having regard to the fact that both the University as well as the Bar Council of India had their own share of inaction in dealing with those colleges in accordance with the law, it would be too unreasonable at this stage to direct that such students should be disqualified from entering the profession. As directed earlier in the interim order dated 19-12-1996, these students may be permitted to be enrolled as Advocates, subject to the condition that they succeed in an examination to be conducted by the Bar Council of Andhra Pradesh and/or the Bar Council of India. The Bar Council of India and the Bar Council of Andhra Pradesh are, therefore, directed to conduct an examination for such of those students as mentioned above to ensure that students with basic knowledge of law are alone entitled to enter the profession.

(3) With reference to the students allotted and pursuing their studies in law, in colleges whose affiliation was approved by the Bar Council of India for some time, but disapproved later or refused to be granted continuance of approval of affiliation.

Such students shall be transferred to the various colleges whose affiliation has been approved by the Bar Council of India indicated earlier in this judgment as a one time adjustment, with a view to protect the interests of the innocent students. The respondents herein are directed to give appropriate relaxations of all the rules applicable to these law colleges to whom these students are being transferred now in view of the extraordinary situation created by the mistakes of the respondents.

(4) The other aspect of the problem of the students is that some petitions have been filed alleging that in view of the action of the Bar Council of India, students who are otherwise eligible to enter the law colleges were deprived of the opportunity. This claim presupposes the existence of a certain number of seats in various law colleges in accordance with the law. Now, it transpires after a full analysis of the situation, that most of the seats in various law colleges are, not, seats in existence in accordance with the law.

43. Assuming that in some cases, a student who was genuinely entitled for admission into the law college is deprived of that opportunity, we are of the opinion that the clock cannot be put back.

44. It may appear that some injustice is done to such of those students. But

what is more important is systematisation of the legal education. It is better to produce less number of well trained law degree-holders than to produce a large number of ill-trained or untrained law degree-holders. The larger interests of the society and the larger public interest must be given way to by the individual interests and rights.

45. In view of the abovementioned facts, the entire batch of writ petitions and Writ Appeal are disposed of with directions as indicated above.