

(1989) 11 MP CK 0027
In the Madhya Pradesh High Court
Case No : M.P. No. 1070 of 1989

Kumari Anjana Mishra and Another	APPELLANT
Vs	
Principal, K.M. Rustogi, M.L.B. College, Gwalior and Others	RESPONDENT

Date of Decision : 10-11-1989

Acts Referred:

Advocates Act, 1961 — Section 24(1)
Constitution of India, 1950 — Article 14, 15, 19(1), 46
General Rules, 1988 — Rule 25, 4
Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973 — Section 17, 20, 29, 35, 36

Citation : AIR 1990 MP 120

Hon'ble Judges : T.N. Singh, J;S.K. Dubey, J

Bench : Division Bench

Advocate : R.D. Jain, for the Appellant; J.P. Gupta, for the Respondent

Final Decision : Allowed

Judgement

T.N. Singh, J.—Should classroom education be monopolised by potential professionals of only one particular class? This question with its constitutional remification a la gender justice in statutory context has surfaced for decision in this case.

2. Two girl students jointly addressed a letter to this Court on 4-8-1989, making a common complaint against Principals of M.L.B. College and Madhav Mahavidyalaya, both of Gwalior. We directed on 20-9-1989, issuance of notices to those respondents. Petitioner No. 1 (Kum. Anjana Mishra) has complained that she had applied in the month of June, 1989 for admission in Part II of L.L.B. course having cleared Part I with 61% of marks, but the Principal, M.L.B. College has not passed any order on her application. She petitioned this Court on being verbally refused admission. She has stated further, on oath, that she was forced to appear as a private candidate in Part I examination though she was allowed orally to attend classes in M.L.B. College and she was regular in attendance. Petitioner No. 2 (Kum. Archana Shrivastava) had also applied similarly, as per

her statement on oath, in June, 1989, for admission in Part II/LL.B. course in M.L.B. College and she too has been refused admission for the reason that she was not regular student in Part I. She has admittedly passed that examination in 1st Division, but as a private candidate. Both petitioners have also complained that they had approached Madhav Mahavidyalaya as well for admission, but were similarly rebuffed.

3. On 6-10-1989, Dr. K. M. Rustogi, Principal, M.L.B. College and Dr. C. B. Kelkar, Principal, Madhav Mahavidyalaya, appeared before us in person and submitted that the affiliating institution, Jiwaji University, was necessary party to be heard in the matter. Inasmuch as, the Colleges concerned were bound to follow dictates of the University and they relied on the restriction imposed by the University on the admission of those students in II year class who had passed Part I of LL.B. course as private candidates. Accordingly; the Registrar, Jiwaji University, was noticed in the matter.

4. On 12-10-1989, return of the University came on record and the Registrar, Shri B.P. Dixit, also personally appeared. On 18-10-1989, we took the view that the controversy mooted involved a question of general importance affecting equally the law students, the Universities and the Law Colleges in the State. We considered it appropriate, therefore to hear University's counsel and we also appointed Shri R. D. Jain, Advocate, as amicus curiae, to assist the Court in view of the fact that the petitioners had no legal aid and advice. Counsel addressed us on 24-10-1989 and 25-10-1989. We reserved orders to deliberate during Diwali holidays.

5. For evaluating the constitutionality of the prohibition, we are required to examine relevant constitutional provisions as also the provisions of M. P. Vishwavidyalaya Adhiniyam, 1973, for short, the adhiniyam. However it would be appropriate to extract the provisions cited by the University to support the prohibition. It was submitted that the "Board of Studies" has framed "Rules" and Annexure I of the Return of the University contained extracts of the relevant Rules captioned, "General Rules (1988), Degree of Bachelor of Laws (LL.B.) Three Years Integrated Degree Course". The nodal points of the "Rules", relevant to the controversy are reproduced below:

"4. Admission to the LL.B. Second Year course may be given only to a candidate who has passed the LL.B. First Year Examination of this University after pursuing a regular course of study prescribed for LL.B. First Year at a college affiliated to this University for one academic year. A candidate who has passed the LL.B. First Year Examination of other University of M.P. as may be recognised for the purpose by this University may be admitted to the LL.B. Second Year course on the condition that the candidate shall be required to pass in those papers of LL.B. First Year Course of this University which he has not passed in the LL.B. First Year Examination of other University. He should appear in such paper or papers along with the LL.B. Second Year Examination. However, he may be exempted from such paper/papers of LL.B. Second Year and/or Third Year course of this

University which he has passed in LL.B. First Year course of other University."

"25. A woman candidate who is qualified to take admission in LL.B. Degree Course as a regular candidate may appear in all the three Years of LL.B. or any of them as a non-collegiate candidate. However, the LL.B. Degree so obtained is not recognised for enrolment as an advocate".

6. Admittedly, the Adhiniyam governs the administration of affairs of all the nine Universities established and functioning in the State. Section 6(1) empowers each University to "provide for instruction in such branches of learning as the University may, from time to time determine and to make provision for research and for the advancement and dissemination of knowledge". Under Sub-section (10), a University is empowered to "grant subject to such conditions as the University may determine, diplomas or certificates and confer degrees and other academic distinctions on the basis of examinations, evaluation or any other method, of testing". Proviso (ii) thereof deserves to be extracted because of implicit reliance thereon by University's counsel, Shri Gupta:

"Provided that no person shall be admitted.

(ii) any examination in the Faculties other than the Faculty of Arts, the faculty of Social-Sciences and the Faculty of Commerce.

Unless he has pursued a course of studies in a University Teaching Department, a School of Studies or a College :

Provided further that the State Government may by notification, permit the admission of women candidates to an examination leading to a Bachelor's degree in the Faculty of law without pursuing a course of studies in a University Teaching Department, School of Studies or a College.

7. Reference may also be made, briefly, to the provisions of Sub-sections (17), (20) and (36) of Section 6. Power to conduct, co-ordinate, regulate and control teaching and research work in the colleges and the institutions, recognised by the University is contemplated in Sub-section (17), while under Sub-section (20), the University is required to "promote with special care the educational interest of the weaker sections of the People and in particular of the Scheduled Castes and the Scheduled Tribes". Sub-section (36) contemplates making of "special arrangements in respect of women students as the University may consider desirable". Section 9 contemplates that the Statutes, Ordinances or Regulations, as the case may be, may provide for "teaching and courses and curriculum" to be binding on the authorities concerned. Under Chapter IV, in Section 19 are listed "Authorities of the University" and among them are mentioned, the Executive Council, the Academic Council and the Boards of Studies. But, there is another institution called "Coordination Committee" provided under Chapter VI, in Section 34. Clauses (xii) and (xxvi) of Section 24 deserve notice as thereunder, among other powers and duties of the Executive Council, are mentioned those relating to affiliation and preparing a "College code" for laying down therein the terms

and conditions of affiliation of colleges other than Government Colleges. According to Section 29, "the Board of Studies shall have such powers and perform such functions as may be prescribed by the Statutes". Section 34(3) provides for the first Statutes and Ordinances to be drawn up by the Co-ordination Committee, but under Sub-section (4), that Committee is also empowered to undertake suo motu from time to time, examination of Statutes and Ordinances in force in the various Universities and also to approve or reject Statutes and Ordinances submitted to it by the Executive Council of any University. Section 35(j) contemplates that by Statutes conditions for affiliation of any College may be laid down, Section 37 enumerates the subjects with respect to which Ordinances may be made. As per Clause (i), provision may be made by Ordinances for admission of Students to Colleges and under Clause (iii), for examinations leading to the degrees, diplomas and certificates etc. u/s 38(1), an Ordinance made by the Executive Council is required to be placed before the Co-ordination Committee for its approval and that Committee has been given the power to "approve it or reject it and return it back for reconsideration, either in whole or in part, together with any amendment which it may suggest". Indeed, as per Section 39(4), final authority is vested in the Co-ordination Committee in that regard.

8. Learned Amicus Curiae, Shri Jain submitted with great force and confidence that the so-called "Rules", a forequoted, have no legal sanction and indeed, the Board of Studies had powers only to "make recommendations in regard to courses of studies and examinations in the subject/subjects with which it deals", as per Statute No. 11 and that as per Section 37, an Ordinance duly enacted in accordance with the provisions of the Adhiniyam can provide validly for prohibition as regards admission of students to colleges or even in regard to their examinations in any or all courses of studies. He also submitted that till today, there is nothing validly "enacted" except Ordinance Nos. 5 and 6 (which deals with examination) and Ordinance No. 7 (which deals with admission of a student to a college) but in those too there is nothing that could sustain the legal basis for the impugned prohibition.

9. We have examined meticulously the Ordinances above-referred and indeed, Shri Gupta also found it difficult to refute Shri Jain's contention. He was candid indeed to submit that we need not refer either to the "Rules" (framed by the Board of Studies) or to the Ordinances as the validity of the impugned prohibition can be sustained by Proviso (ii) of Section 6(10) of the Adhiniyam. Shri Gupta has also contended that in the case of women candidates, they would not be admitted to a course of studies in a college until and unless the notification contemplated under the proviso has been made by the State Government.

10. University is a citadel of learning. Lest devious forces rock its institutional edifice, provisions of the Adhiniyam meant to protect that are to be so construed as to repel efforts made to deflect its role. Shri Gupta's contention, based indeed on Sub-section (10) of Section 6, that holding examinations and conferring

degrees is University's main role and function, has to be rejected as that strikes at the root of the constitutional imperatives of Articles 46 and 51A. Through industrious learning only is "excellence" achieved and for that right ambience can be found only in University's nurseries where scholarly tone and temper grows. Provision for "education" to achieve that object is contemplated under Article 46, not for the purpose of paper degrees being secured by citizens through fluke or rigging. On the legal plan, established rules of statutory interpretation obligates Sub-sections (17), (20) and (36) to be allowed effective operation so as not to be subordinated to Sub-section (10) in order that Universities several statutory functions contemplated u/s 6 remain mutually exclusive and each is invested with positive content. The destiny of each student and each affiliated College of the University is legislatively secured through Statutes/Ordinances under the Adhiniyam and we have no doubt that any "recommendation" (such as of the board of Studies) cannot manipulate legally impermissible deviation. The gross blunder in this case evidently was that (of) The Board of studies. It had incompetently established impermissible linkage between the two different functions of the University -- its duty to provide educational facilities to students and to hold examinations and confer degrees. That is so obvious that reliance of respondents in this case on the provisions of the Advocates Act helps only compound that blunder.

10-A. In our opinion, the right to receive education in terms of the constitutional imperative of equal opportunity has to be delinked from the right to sit in an examination and to receive a degree on the basis thereof. The sole basis for the impugned prohibition, evidently, is Section 24(1), Clause (iii), of the Advocates Act, 1961. A person can be qualified to be admitted as an Advocate if he has obtained a degree in Law, "after undergoing a three-year course of study in law from any University in India which is recognised for the purposes of this Act by the Bar Council of India". Shri Gupta also relied on Baldev Raj Sharma Vs. Bar Council of India and Others, to submit that the "recommendations" (wrongly cited as "Rules") of the Board of Studies receive support from the view expressed therein. We do not think he is correct because the factual matrix of the decision rather supports the view that right to receive education in law and to obtain a degree for the course of studies pursued cannot be limited only to those students who eventually join the legal profession as advocates. Indeed, it is noticed in that decision that in this country, there are Universities which grant LL.B. degrees marked "Professional" and also degrees which are marked either "General" or "Academic". The decision, in our view, establishes that it is well within the competence of any University to ordain and orient any course of studies and also to confer degrees in regard to the studies pursued.

11. Our attention was drawn to another recent decision bearing on the question, Deepak Sibal Vs. Punjab University and Another, which supports the view we have expressed. The fact-situation of that case also lends credence to our opinion that access to legal education cannot be restricted to a single channel of prospective professionals. Restriction cannot be placed on the study of law to

constrict the "flow of students to law schools and law colleges with the object of preparing them only for the profession of an Advocate. Those who aspire to be either law Teachers, or law Officers in Government/Semi-Governments concerns, cannot be denied access to study of law by attending regular classes in a public institution. It may not be inappropriate in this context to call the widely-exclaimed view of Dr. Sarvapalli Radhakrishnan "A University", the distinguished educationalist and philosopher-statesman has said, "is essentially a corporation of teachers and students". He has also expressed the view that "every attempt should be made to draw a good proportion of best ability in the country in the teaching profession". Indeed, the quality of education, he stressed, is essentially determined by the "kind of men and women we secure as teachers". (See The Present Crisis of Faith pp. 147 et seq.). Documenting analysing and commenting on the deliberations of 1972 Poona Seminar on Legal Education of University Grants Commission, one distinguished contemporary legal academic has noted that the law teachers in our country are expected to "inculcate a degree of legal craftsmanship in students; to help internalization of the notion of the rule of law, to inculcate a critical posture towards the role of law in society and to help realize the potential of law as a tool of social engineering" so that as a developing nation it maintains the encouraging climate of progress and advancement in all fields of human endeavour. (See-- "Socio-Legal Research in India", Prof, Upendra Baxi, 24 JILI 416, 418).

12. Should those, who eventually become law teachers must learn law outside class room? How and where can they be expected to pick up the expertise and attributes to fulfil that role? It is true that u/s 7(1)(h) of Advocates Act, the Bar Council of India is required to "promote legal education" and to frame Rules u/s 49(1)(d) to "prescribe the standards of legal education", but the caption of the relevant Rules (embodied in Part IV) amply and vocally speak of the object and the purpose not only of the Rules but also of the Act itself. The caption reads, "Standards of Legal Education and Recognition of Degrees in Law for Admission as Advocates." It adds strength to the glare of the leading light shed by the long title of the Act-- "Act to amend and consolidate the law relating to legal practitioners and to provide for the constitution of Bar Councils and an All India Bar". The legislative measure is obviously not a complete Code on legal education; it really is a measure enacted in terms of Article 19(6) of the Constitution. University Grant Commission's 1972 Poona Seminar had expressed, therefore, the need for "common course and education" for law students lest the so-called would be lawyers claim to be treated as a privileged class.

13. In our country we have only one type of "lawyers" and a single method of "legal training", through study of law-courses arranged by Universities culminating in law-degrees granted by those bodies. Despite our legal system being based on Anglosaxon jurisprudence, we have departed from the English experience. In England, entry to legal profession is controlled by the four Inns of Court for "Barristers", and the Law Society for "Solicitors". In neither case is a

law-degree compulsory although there is, of fate, a change in perception and endeavour and England may soon rid itself of what is acknowledged now as a "barbarous condition" (See-- Lawyers and the Public Interest, Michael Zander, p. 23). Not only skill but learning also has been considered universally as essential to add grace to the profession practised in certain areas like teaching, medicine and law. Learning and Skill must both combine to constitute "Professional qualification" contemplated under Article 19(6) in certain cases. Reasonable restriction may be imposed "in the interest of general public" by law enacted to circumscribe wholesomely the freedom or choice of profession guaranteed under Article 19(1). It will certainly not be in the interest of general public if for acquisition of legal learning, to follow such occupation as of a Law Teacher or law Officer, one is subjected to prior restraint and is denied the right to suitably equip himself by receiving class-room education. Public interest would be jeopardised if quacks with half-baked knowledge not fill up court-rooms but equally also when they take up teaching in class rooms or work of important documentation and legal advice in Government/Corporate establishments and commercial/industrial concerns.

14. The vice of unreasonable restriction on the choice of profession may be tested also on the anvil of Article 14. For, the new constitutional doctrine admittedly interlinks the different fundamental rights. Indeed, the guarantee envisaged under Article 19 is measurable in terms of the "Right to Equality" contemplated under Articles 14, 15 and 16. Political freedom has opened up, under the Republican set-up, new vistas of opportunities to be shared on the basis of equality. Unequal treatment on the ground of sex is prohibited, while protective provision for women, on the other hand, is permissible. The Directive principles, vide Article 38(2) obligate the state "to eliminate inequalities in status, facilities and opportunities" amongst people engaged in different vocations. Article 41 secures to citizens, right to education. The educational interest of the "weaker section" of the people, according to Article 46, has to be promoted "with special care". However, the requirement of reasonable classification and reasonable or rational nexus are general yardsticks provided by Article 14 with which interference with educational rights is also measurable. What is often forgotten that neither the choice of "class" nor of the "object" for the interference can be arbitrary, otherwise the "nexus" requirement would be illusory. In *E.P. Royappa Vs. State of Tamil Nadu and Another*, the positivist view of equality is stated as anything which is arbitrary is antithetic to equality. The Constitutional "way of life" must shun the "narrow pedantics of lexicographic approach."

15. To cope up with limited resources the object to limit access to class-room to few chosen can generally be to choose the deserving or meritorious. That has come to be recognised universally and our judicial annals are lighted in that respect by a substantial body of case-law of the highest order. In *R. Chitralakha and Another Vs. State of Mysore and Others*, the Constitution Bench had held long back that even Government running the Medical and Engineering Colleges can lay down only reasonable basis for selection of candidates for admission and

that merit criteria must form part of that basis. In *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, oral interview test for selection of candidates in the Engineering College was held impermissible as an "exclusive test", and allowed as an "Additional or supplementary" test. More than 15% marks being set for oral interview was held unreasonable and arbitrary. Because "relevance and reason" must inform the object of any policy or decision, in the matter of nomination to the group classified as entitled to admission in reserved quota (of "outside-State students") in Medical Colleges arbitrary choice was held unconstitutional. In *Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others*, equities were adjusted between students wrongly admitted and those unjustly excluded by ignoring their merit and direction was made for extra seats to be created. In *Dr. Pradeep Jain and Others Vs. Union of India (UOI) and Others*, it was held that effort should always be "to select the best and most meritorious students" because "philosophy and pragmatism of universal excellence through equality of opportunity for education and advancement across the nation is part of our founding faith and constitutional creed".

16. In analysing the reasonableness of the classification, in *Deepak Sibal Vs. Punjab University and Another*, (supra), wholesale or cent per cent reservation for a particular class or group of students (in the evening classes in a Law College) to the exclusion of meritorious candidates was held unconstitutional and the prohibitory rule framed by the University was struck down. The decision is in itself the complete answer to Shri Gupta's contention that when a "well-defined" class is chosen it may be blessed all favours to the extent that others left out may be validly treated with an "unequal hand and evil eye". His reliance on *Jawaharlal Nehru University Students' Union Vs. Jawaharlal Nehru University and Another*, does not hit the bull's eye-- The admission policy of the University in that case was found to be in line with National Policy of education. Entrance test being confined to all candidates equally, answering to the same requirement of doing graduation in a (10+2+3) years course of study there could be no complaint of discriminatory classification. The educational policy of Maharashtra Government to prevent unemployment of teachers was held valid in *Vidharbha Sikshan Vyawasthapak Mahasangh Vs. State of Maharashtra and Others*, as that was generally applicable to all candidates and selection of institutions for admission was based on need-cum-performance criteria. *Jeevak Almast Vs. Union of India (UOI) and Others*, is cited by Deputy Advocate General, Shri M. C. Jain, but that does not add strength to Shri Gupta's argument. The question in that case concerned entitlement of admission in 25 per cent reserved quota fixed for All India Entrance Examination for P. G. Medical courses. Shri Jain has also drawn our attention to this Court's decision in *Mukesh Kumar Tiwari Vs. Rani Durgawati Vishwavidyalaya and Another*, and *Ravi Shankar Pandey Vs. State of Madhya Pradesh and Another*, but those also do not help Shri Gupta. Indeed, in *Mukesh Kumar* it was held that the University was empowered to prescribe their own standards of higher marks for admission to a law course and Bar Council's

eligibility criteria of 40% marks was not conclusive and binding on it. In the other case, cancellation of admission fraudulently secured in a reserved quota as a dependent of "freedom fighter" was held valid.

17. The question to be examined now is, if the so-called "Rule" 4 can and does stand the constitutional cavil, manifested in the discussion made hereinabove. In its both parts, the "Rule" offends the constitutional imperative and further, "Rule" 25 does no gender justice to save the "Rule" or provide relief to the instant petitioners. Shri Gupta made substantial and indeed plausible arguments to kill the vice that afflicts specifically the second part of the "Rule" and cited case-law galore to support his submissions. He submitted that in itself the second part is not discriminatory as no special case is made for candidates passing first year LL.B. course from other Universities because they have to also fulfil the requirement of the first part, namely, of doing that course as a regular student. It is not necessary, therefore to consider his submission that non-mentioning that requirement be not treated as *casus omissus* but we read down the provision applying the rule of purposive or reasonable construction. According to us, the second part will fall with the first part, if that so happens. Both are obviously interlinked inextricably.

18. Where do we get the solid constitutional foundation to maintain the validity of even the first part of "Rule" 4? The word "only" indicating total bar to admission in second year of students not pursuing regular course of study in the first class carries in it irredeemable vice. Total reservation as reiterated in *Deepak Sibal Vs. Punjab University and Another*, (*supra*) in favour of one group or class to total exclusion of other is *per se* offensive. The classification is *ex facie* unreasonable and its object is equally afflicted. Right to education has been restricted in terms of professional requirement of one group only, to the total exclusion of others. The purpose of the classification could have been reasonably achieved by group-reservation keeping in view the fact that even those who pursue three years' regular course of studies may not eventually follow the profession of an Advocate. The irrationality of the "nexus" is boldly proclaimed by its total reliance on a tenuous assumption. Indeed, the "object" itself defeats the constitutional guarantee of freedom or choice of profession. It insidiously contemplates that all law students pursuing regular course of studies must become only Advocates. That will be against public interest. There will be overcrowding in the Bar, while avocations which those law students could follow will suffer. There will be dearth of good law Teachers and Law Officers who are equally needed in large number in this country to maintain the pace of all-round progress and advancement.

19. How far "Rule" 25 neutralises the vice of "Rule" 4? That question may be considered now. Despite the constitutional entitlement under Article 15(3) in specific terms for women, and generally for the "weaker section" under Article 46, there is little to be read in "Rule 25 by which the interest of the women students or candidates is advanced or protected effectively. On the other hand,

their denigration is institutionally entrenched by limiting their entitlement to appear in examinations as "non-collegiate" candidates. We are definitely of the view that the purport of Proviso (ii) of Section 6(1) of the Adhiniyam is not such that it can override the constitutional imperative and provide basis for the "Rule". There is little difference as to the nature of vice afflicting the two "Rules", 4 and 25. It is indicated by the expressions "who is qualified to take examination in LL.B. degree course as a regular student" which referentially incorporates the requirement of "Rule" 4.

20. As to the purport of proviso (ii) expressed our view that its focus is on candidate's eligibility for examination but it is necessary to note further that the expression "course of studies" not being defined and in the "Rules" (recommendations of the Board of Studies) that exercise being taken by fixing "three years" for that, the effect of that on the proviso has to be stated. If the Board of Studies had no power or jurisdiction and Adhiniyam having authorised "Statute"/ "Ordinances" being made in that regard, as noticed above, the women candidates and other candidates must sail in the same boat. The proviso indeed, is an enabling provision and the proviso does not disable the University to exercise its power under Sub-sections (17), (20) and (36) of Section 6 of the Adhiniyam.

21. We hold that the power of the University under the Adhiniyam, in view of the provisions of Sub-sections (17), (20) and (36) of Section 6 of the Adhiniyam read with Section 35(j) and Section 37, Clauses (i) and (iii), is not affected, indented or impaired in any manner by any of the provisions of the Advocates Act. It will be well within the competence of the University to define validly the "course of studies" to indicate whether for one, two or three years and at which stage a candidate must pursue that course in an University, Teaching Department, School of Studies of a College, affiliated to the University for appearing at examination. Inasmuch as the University has to cater to the needs of students who may have to pursue avocations other than that of an Advocate and those students, like the woman students, may have difficulties in pursuing in all three years, the "regular course of studies", it may be necessary for the University to make provision in that regard. Merely because the Advocates Act prescribes three years* "regular course of studies", other aspiring for legal education by attending-classes need not be shut out as that would result in their being denied to follow the avocation of their choice such as a Law Teacher or a Law Officer. Saying so, we make it clear still that it would be also within the competence of the University to limit to any specified extent the number of seats that may be availed by students who would not like, or find it not possible for any reason, to pursue studies for all three years in a class-room. What we have held unconstitutional is the total bar which such students face now as to their entry in law colleges.

22. For all the reasons aforesaid, we sum up to say that under the so-called "Rules" framed by the Board of Studies, the impugned prohibition must fail as the Board of Studies have no legal competence to frame the "Rules" Otherwise

too, the "Rules" 4 and 25, according to us, are unconstitutional as they violate Articles 14, 15(3) and 19(1)(g) of the Constitution. Principal, M.L.B. College, Gwalior, acted arbitrarily and unconstitutionally in refusing admission to the petitioners. In the absence of Statute/Ordinance, competently enacted, defining appropriately the "course of studies" to be pursued by students in any college affiliated to the University, there can be no bar enforced against students aspiring for admission in second year class of LL.B. course even if they have not passed part I of LL.B. course as a regular student having pursued study for that course in any college.

23. In the result, the petition succeeds and is allowed, we direct Principal, M.L.B. College, Gwalior, to allow applications of the two petitioners and admit them in second year of LL.B. course if otherwise on merits, they are entitled. In that regard, we may observed only this much that the College has admittedly set as eligibility condition the requirement of a candidate acquiring at least 45% marks and both petitioners have acquired, as noted above, more than 60% marks. Within two weeks, necessary orders shall be passed and the petitioners shall be informed so that they may complete necessary formalities of payment of fees etc. No order as to costs in this matter.