

(2017) 04 KAR CK 0086
In the Karnataka High Court
Case No : 56941-946

N. B. Bhargavi Dravid and others

APPELLANT

Vs

Karnataka State Law University and others

RESPONDENT

Date of Decision : 19-04-2017

Acts Referred:

[Advocates Act, 1961](#), [Section 49\(1\)\(AF\)](#), [Section 7\(1\)\(h\)](#), [Section 24\(3\)\(d\)](#), [Section 49\(1\)\(ag\)\(ah\)](#) -
Legal Education Rules, 2008, — Rule 7, Rule 5

Citation : (2017) 04 KAR CK 0086

Hon'ble Judges : S. Sujatha

Bench : SINGLE BENCH

Advocate : B.O. Chandrashekar, Ganapathi Bhat, M.P. Srikanth, H.T.Narendra Prasad

Judgement

1. These petitions are heard and disposed of by this common order as the issue involved is similar relating to the denial of admission of the petitioners to the 3 years/ 5 years LL.B., degree course. The particulars of the petitioners are as under: LIST OF CASES

Sl. No.	Writ	Petitioners	Numbers	Name	of the	Petitioners	Law
	Remarks	Course	Duration				University

1.	W.P.No. 56941-946/2014	1.	N.B. Bhargavi Dravid	Respondent
No.1	R1 To 5		Karnataka State Open University	5 Years

2. S.G.Lohith Kumar

3. Vinay Kumara P.

4. S.Shilpa Rani R6 - Law Percentage

5. M.S.Swathi Naik

6. M.S.Sharath Kumar Naik

2. W.P.No. 51770/2015 Sri K.Karthik 2nd Respondent X" Passed National Institute Of Schooling/all Marks Card Pending 3 Years
3. W.P.No.57599/2015 Sri Kiran Kumar 1st Respondent Private Study 3 Years
4. W.P.No. 50213/2016 Chandana B.M. 1st Respondent 3rd Year B.Com-Open University 3 Years
5. W.P.No.58495/2016 Mallesha T. 1st Respondent Open University 3 Years
6. W.P.No.63750/2016 Smt.Hamsalatiia Y.V. 1st Respondent Low Percentage 3 Years

2. The Bar Council of India ("BCI- for short), a statutory body corporate, constituted under the Advocates Act, 1961 has framed the Rules known as "The Rules of Legal Education, 2008- (hereinafter referred to as "Rules- for brevity) in consultation with the Universities and the State Bar Councils. Subsequent to the establishment of Karnataka State Law University, the institutions imparting education in LL.B., course are affiliated to the said University. The issue herein mainly revolves round Rule 5 of the Rules and the explanation thereof. It is contended by the petitioners that the University misinterpreting the explanation to Rule 5 of the Rules rejected the admission of the petitioners/applicants for 3 years/ 5 years LL.B., degree course. Rule 5(a) of the Rules provides the eligibility criteria for admission to 3 years LL.B., course, whereas clause (b) of Rule 5 contemplates about the intergrated degree programme i.e. 5 years LL.B., course. The proviso to Rule 5 provides that the applicants who have obtained +2 Higher Secondary pass certificate or I Degree certificate after prosecuting studies in distance or correspondence mode shall also be considered as eligible for admission in the integrated 5 years LL.B., course or 3 years LL.B., course as the case may be. The explanation provides that the applicants who have obtained 10+2 or graduation/post-graduation through open University system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses. It was contended that there is no absolute bar for the candidates/applicants to be eligible for admission in the law courses albeit they have obtained +2 or graduation through open University system provided the candidate possessed basic qualification to possess such studies. The learned counsel for petitioners placed reliance on the letter of the BCI addressed to the Upa-Lokayukta dated 3.11.2015 wherein, the BCI has clarified as follows: "In the same way students who have obtained their first degree through Open University System without having basic qualification i.e. 10th and +2. A student obtains 10th and then +2 through Open University System is eligible for admission in five years law course. The student obtains 10th and then +2 and then first degree through Open University System is eligible for admission in three years law course. Therefore the Bar Council for India never refuses students for admission in law courses who have obtained 10,

+2 and first degree through open schooling/ correspondence/distance mode but only the thing is they should have the basic qualification. As far as the matter of six students is concerned, the Karnataka State Law University can only refuse admission in five year law course if they don't have 10th certificate. If the students have 10th and +2 certificates through any mode as mentioned above, are eligible for admission in five year law course." 3. Further, learned counsel for the petitioners placed reliance on the following judgments: i) Smt. Deepika Bhat S. v. Union of India and others (W.P.No.19608/2010 and connected matters (DD 13.3.2014) (2014 (2) AIR Kar R 738); ii) Sudharani v. The State of Karnataka (W.P. No.36654/2015 and connected matters DD 16.12.2016); iii) Judgment of the High Court of Judicature at Madras in Writ Appeal No.1632/2015 and connected matters [DD-2.2.2016] (AIR 2016 Mad 69) iv) W.P.No.206192/2015 (DD 4.10.2016) (2017 (1) AKR 175). 4. Learned counsel for the BCI would contend that the authority of the BCI to frame the Rules and of the vires of the Rules were considered by this Court and other High Courts wherein, it is held that the BCI has the power to frame the Rules and prescribing the eligibility criteria for admission to LL.B., course as per Rule 5 has been upheld. According to the learned counsel if the applicants/candidates have obtained 10+2 or graduation/post-graduation through open University, are not entitled for admission to the 3 years/5 years LL.B., degree course. Placing reliance on the Judgment of the Hon'ble Apex Court in Annamalai University, represented by Registrar v. Secretary to Government, Information and Tourism Department and others, reported in (2009) 4 SCC 590 : (2009 AIR SCW 2087), it was submitted that the UGC Act is applicable to all the Universities whether it is formal/regular or open schooling. Learned counsel placing reliance on Regulation 8.2 of the UGC Regulations, 1985 regarding the minimum standards of instructions for the grant of I year Degree through formal education and 8.3 of UGC Regulations, 1985 regarding the minimum standards of instructions for the grant of the I year Degree through non-formal/distance education submitted that unless the candidate has successfully completed 12 years schooling through the examination conducted by a Board/University shall not be entitled for admission to the I degree course. According to the learned counsel, 12 years schooling is sine qua non for the admission to First year degree course. Further, reliance was placed on The Karnataka Pre-University Education (Academic, Registration and Administration and the Grant-in-aid, etc.) Rules, 2006 (" Rules 2006- for short) to contend that the basic qualification of 12 years schooling, 10+2+3 years schooling is necessary for admission to 5 years/3 years Law course respectively. According to the learned counsel, an applicant who has completed the qualification 10+2 or graduation/post-graduation through open universities is not eligible for admission to five years/three years Law degree. Learned counsel placed reliance on the following judgments: i) Bar Council of India v. Board of Mang. Dayanand College of Law and others (AIR 2007 SC 1342) : (2007 AIR SCW 1518); ii) Archana Girish Sabnis v. Bar Council of India and others (2015) 4 SCC 498 : (AIR 2015 SC 913); iii) Sakthiram v. Bar Council of Tamil Nadu (W.P.Nos.26257/2009 and connected matters (DD 16.4.2010) (Reported in 2010

(4) Mad LJ 849); iv) M/s. Escorts Ltd. v. Regional Director, ESIC (MFA No.466/1986 DD 28.8.1986/3.9.1986); v) W.P. Nos.25809/2010 and connected matters (DD 13.3.2014); vi) Annamalai University, represented by Registrar v. Secretary to Government, Information and Tourism Department and others, reported in (2009) 4 SCC 590 : (2009 AIR SCW 2087). 5. Learned counsel further submitted that any clarification issued by the BCI would not prevail over the statute and the Rules. The matter is now pending before the Legal Education Committee, inasmuch as the clarifications issued by the BCI, as per the letter addressed to Upa Lokayukta, etc., referred to by the petitioners. She submitted that the petitioners are not qualified for admission to 3 years/5 years LL.B. degree course in terms of Rule 5 and the explanation thereof, for the purpose of enrolment. Hence, the University was justified in rejecting their admissions for 3 years/5 years LL.B. degree course. Learned counsel for the University placing reliance on regulation of the Karnataka State Law University, which is in pari materia with Rule 5 of the BCI Rules, supported the arguments advanced at the hands of the learned counsel for BCI. 6. Learned Additional Government Advocate placing reliance on the judgment of the High Court of Judicature at Madras in Writ Appeal No.1632/2015 and connected matters [DD-2.2.2016] (AIR 2016 Mad 69) submitted that there is no absolute bar to approve the admission of the candidates obtaining 10+2 or graduation/post graduation through Open University schooling but the only rider is that the basic qualification for obtaining such studies are required to be complied with. 7. Rule - 4 of the Rules provides for two courses of law leading to Bachelor's Degree in law: [a] A three year Degree Course in Law undertaken after obtaining a Bachelor's Degree in any discipline of studies from a University or any other qualification considered equivalent by the Bar Council of India. Provided that admission to such a course of study for a degree in law is obtained from a University whose degree in law is recognised by the Bar Council of India for the purpose of enrolment. [b] A Double Degree Integrated Course combining Bachelors- Degree Course as designed by the University concerned in any discipline of study together with the Bachelors- Degree Course in Law which shall be of not less than five years- duration leading to the Integrated Degree in the respective discipline of knowledge and Law together. Provided that such an integrated degree program in law of the University is recognised by the Bar Council of India for the purpose of enrolment. Provided further that in the case of integrated double degree course the entire double degree course can be completed in one year less than the total time for regularly completing the two courses one after the other in regular and immediate succession, meaning thereby, that if the degree course in the basic discipline, such as in Arts, Science, Social Science, Commerce, Management, Fine Arts, Engineering, Technology or medicine etc. is of three years- duration of studies, integrated course in law with the basic degree in the discipline could be completed in five years- time but where the degree course in basic discipline takes four or five years, the integrated degree in law with such degree course in the discipline would take one year less for completing in regular time than the total time taken for the two degrees taken separately if completed back to back.

Explanation 1: Double degree integrated course such as BA., LL.B. can be completed within (3+3 " "1) 8. Rule-5 of the Rules contemplates eligibility for admission which runs as under: "5. Eligibility for admission: (a) Three Year Law Degree Course: An applicant who has graduated in any discipline of knowledge from a University established by an Act of Parliament or by a State legislature or an equivalent national institution recognised as a Deemed to be University or foreign University recognised as equivalent to the status of an Indian University by an authority competent to declare equivalence, may apply for a three years-degree program in law leading to conferment of LL.B. degree on successful completion of the regular program conducted by a University whose degree in law is recognised by the Bar Council of India for the purpose of enrolment. (b) Integrated Degree Program: An applicant who has successfully completed Senior Secondary School course (" +2-) or equivalent (such as 11+1, " A- level in Senior School Leaving certificate course) from a recognised University of India or outside or from a Senior Secondary Board or equivalent, constituted or recognised by the Union or by a State Government or from any equivalent institution from a foreign country recognised by the Government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centres of Legal Education to obtain the integrated degree in law with a degree in any other subject as the first degree from the University whose such a degree in law is recognised by the Bar Council of India for the purpose of enrolment. Provided that applicants who have obtained + 2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission in the Integrated five years course or three years- LL.B. course, as the case may be. Explanation: The applicants who have obtained 10 + 2 or graduation /post graduation through open Universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses." 9. A conjoint reading of these Rules makes it clear that an applicant who has graduated in any discipline of Knowledge from a University established by an Act of Parliament or by a State Legislature or equivalent National Institution recognised as a Deemed University or foreign University recognised as equivalent to the status of an Indian University by an Authority competent to declare equivalence is eligible for three years Law Degree Course on successful completion of the Degree in Law as recognised by the Bar Council of India for the purpose of enrolment. For an Integrated Degree Program, an applicant who has successfully completed Senior Secondary School Course + 2 or equivalent [such as 11+1] " A- level in Senior Secondary Leaving Certificate Course from a recognised University of India or outside or from a Senior Secondary Board or equivalent constituted or recognised by the Union or by a State Government or from any equivalent Institution from a foreign country recognised by the Government of that Country for the purpose of issue of qualifying service is eligible to obtain integrated degree in Law and such Degree in Law is recognised by the Bar Council of India for the purpose of enrolment. Proviso to Rule 5

provides that applicants who have obtained +2 Higher Secondary Pass certificate or I degree certificate after prosecuting studies in distance or correspondence method shall be eligible for admission in the integrated 5 years course or 3 years LL.B., course. Explanation further provides that the applicants who have obtained 10+2 or graduation/post-graduation through open University system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law course. The argument of the University and the BCI is that the applicants who have obtained 10+2 or graduation/post-graduation through open Universities are totally dis entitled for entry into Law course. Prima facie, it is clear that the applicants obtained +2 through Open Universities system directly are not eligible for 5 years integrated course and similarly the applicants who have obtained graduation/post-graduation through open university system directly are also not eligible for admission for 3 years LL.B., course. 10. Rule 5 of the Rules is upheld by this Court as well as by the other Courts. In W.P.No.19608/2010 and connected matters (2014 (2) AIR Kar R 738) (supra), the stance of the BCI was that the said Rule is wrongly understood by the petitioners therein. It was asserted that it does not recognize or eschew the courses pursued through the open Universities or distance mode. The Bar Council only prescribes that there should be only basic education which each candidate should have undertaken and prosecuted. But now, it was argued that there is total prohibition to accord approval for the admissions to the law courses if the applicants acquired 10+2 or graduation/post-graduation through open universities system. 11. Rule 8 of the Rules, 2006 (" Rules 2006- for short) reads thus: 8. Eligibility for admission to I Year and II Year Pre-University Courses.- (1) A pass in Secondary School Leaving Certificate Course or tenth standard examination conducted by the Karnataka State Secondary Education Examination Board or pass in an equivalent examination shall be the minimum qualification for admission to the first year Pre-University Course. (2) No student shall be admitted to first year Pre-University Course unless he produces the Secondary school leaving certificate issued by the Karnataka State Secondary Examination Board or by any other appropriate authority and the certificate shall not be returned to the candidate till he completes the course or lawfully takes a discharge from the college. A student shall have passed in the first year annual examination or equivalent examination to qualify for admission to the second year Pre- University class by securing a minimum of thirty marks in each subject and an aggregate of thirty-five per cent. in Part-I and Part-II. (3) The Pre-University colleges shall conduct an annual examination for the students of first year Pre-University classes at the end of each academic year as far as possible in the month of March. There shall be a supplementary examination for students who fail in the first year annual Pre-University examination in the month of June. Students who pass in this examination are also eligible for admission to the second year Pre-University Course in the same year." 12. In Annamalai University's case (2009 AIR SCW 2087) (supra) at paragraphs 41 and 42, the Hon'ble Apex Court has held thus: "41. Was the alternative system envisaged under the Open University Act was in substitution of the formal system is the

question. In our opinion, in the matter of ensuring the standard of education, it is not. The distinction between a formal system and informal system is in the mode and manner in which education is imparted. UGC Act was enacted for effectuating co-ordination and determination of standards in Universities. The purport and object for which it was enacted must be given full effect. 42. The provisions of the UGC Act are binding on all Universities whether conventional or open. Its powers are very broad. Regulations framed by it in terms of clauses (e), (f), (g) and (h) of sub-Section (1) of Section 26 are of wide amplitude. They apply equally to Open Universities as also to formal conventional universities. In the matter of higher education, it is necessary to maintain minimum standards of instructions. Such minimum standards of instructions are required to be defined by UGC. The standards and the co-ordination of work or facilities in universities must be maintained and for that purpose required to be regulated. The powers of UGC under Sections 26(1)(f) and 26(1)(g) are very broad in nature. Subordinate legislation as is well known when validly made becomes part of the Act. We have noticed hereinbefore that the functions of the UGC are all pervasive in respect of the matters specified in clause (d) of sub-section (1) of Section 12-A and clauses (a) and (c) of sub-section (2) thereof." 13. In Sakthiram's case (supra) the Division Bench of the Madras High Court has observed thus: "23. Therefore, a conjoint reading of Sections 7, 24(1)(c)(iii) and (iii a), 49(1)(ag) and (ah) of the Act, clearly provide the required power and authority for the Bar Council of India to prescribe the minimum qualification, standard, inclusive of minimum marks, attendance, curriculum and other incidental qualifications to the Law University and the Law College recognised by it. Accordingly, the Bar Council of India in exercise of its power under Sections 7(1)(h) and (i) , 24(1)(c)(iii) and (iiia), 49(1)(af), (ag) and (d) of the Advocates Act, 1961, has introduced the Rules of Legal Education, 2008, which has come into effect from 14.09.2008 onwards. 24. A degree has been defined by the University Grants Commission Act, 1985 and the Regulations framed by the University Grants Commission. As per the said Act and Regulations, a degree has to be for a duration of three years after the completion of +2 course. However, under the Indira Gandhi National Open University Act, 1985, a student is permitted to undergo and complete a post graduate degree without a basic as well as a first degree. The Division Bench of this Court and the Honourable Apex Court in Annamalai University represented by Registrar v. Secretary to Government, Information and Tourism Department and others (2009 AIR SCW 2087), has held that " University Grants Commission Act, 1956 and its Regulations will have overriding effect on the provisions of the Indira Gandhi National Open University Act, 1985 and therefore, a degree only means a degree obtained under the above said Act. In other words, it was held that a degree obtained under the Indira Gandhi National Open University Act, 1985, from a Open University is not a valid degree. 43. The Honourable Apex Court also considered Section 24(3)(d) of the Act, by holding that the said sub-section can only be used to qualify a person who was otherwise disqualified under Section 24(1) of the Act. Hence, it is clear that the Honourable Apex Court was dealing with the case where the Bar Council of India sought to prevent the enrolment

which was in the domain of the State Bar Council. The Honourable Apex Court was also dealing with Section 49 (1)(ag) and (ah) and not the power exercised by the Bar Council of India in the present case under Section 49(1)(af) and (d) read with Section 7(1) of the Act. 44. Similarly, in *V. Sudeer v. Bar Council of India*, and another reported in (1999)3 SCC 176 : (AIR 1999 SC 1167), the Honourable Apex Court was dealing with a case wherein the Bar Council of India sought to impose the condition that after the completion of the law course, a candidate will have to undergo an apprenticeship before enrolment. The Honourable Apex Court by following the said ratio, has held that such condition cannot be imposed by the Bar Council of India and it does not have the power or authority under Section 49(1) and Section 7(1) of the Advocates Act, 1961. 45. In fact, the Honourable Apex Court has specified in the said judgment that Section 49(1) (af) of the Act deals with the minimum qualification required for admission to a course in law in a recognised university and the said provision does not have anything to do with the rules impugned therein. The Honourable Apex Court was also considering the scope of Sections 7(1)(h), 24(3)(d) and 49(1)(ag) and (ah) and not Section 49(1)(af) of the Act. Therefore, we are of the considered view that the above said two judgments rendered by the Honourable Apex Court do not help the case of the petitioners. Accordingly, we answer Points (i) (ii) and (iii) in favour of the respondents that the Rules of Legal Education, 2008, are in accordance with the power conferred under Sections 7(1) (h) and (i), 24(1)(c) (iii) and (iii a), 49(1)(af), (ag) and (d) of the Advocates Act, 1961 and explanation to Rules 5 of the Rules of Legal Education, 2008, is in accordance with Section 49 of the Act and not contrary to Section 24(1) of the Advocates Act and hence, they are constitutional and valid in law." 14. In the case of *S.R. Deepak v. The Tamilnadu Dr. Ambedkar Law University* and another (W.A. No.1632/2015 DD 2.2.2016) (AIR 2016 Mad 69) the Madras High Court of Judicature held thus: "22. In the case on hand, the appellant had passed the 2 years examination, i.e., for IX and X standard in one year privately without any educational aid. As such, it cannot be held that he had obtained a basic qualification of X standard in 10 years. As a sequel, we have no hesitation in holding that the appellant does not fall within the eligibility criteria as enshrined in Clause (a) of Rule 5 of the Rules of Legal Education." 15. Yet another Division Bench of High Court of Judicature at Madras in the case of *S. Theethagiri v. The Director or School Education and others* W.P.Nos.34630 of 2016 and connected matters (DD.21.10.2016) (Reported in 2016 (8) Mad LJ 456) has observed as under: "9. In the case on hand, insofar as the petitioners in W.P. Nos. 32279 and 33108 of 2016 and W.A.No.1194 of 2016, are concerned, they have completed 1st to 10th standard in regular schooling, but due to some unavoidable circumstances they have taken up the 10th standard Board examination privately. Further, the petitioners have also taken plus 2 schooling. It is not as if the candidates have obtained a straightaway 10th pass, but they have prosecuted upto 9th standard and also having studied in the 10th standard as well, but have appeared in the examination in the private and the requisite of 10+2 is very much satisfied. Added further, all the three candidates have done

their UG degree in a regular stream. 10. Proviso to Rule 5 of The Bar Council of India Rules, states that applicants who have obtained +2 Higher Secondary Pass Certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission in the Integrated Five Years course or three years- LL.B. course, as the case may be. Therefore, they do not suffer from any disqualification. Further, on a reading of the Rule, and overall analysis of the pleadings and submissions, we do not find any technical reasons to be interpreted to dissuade the petitioners from seeking admission to the three years law course for the factual circumstances, which is noted above. 11. Insofar as the petitioners in W.P. Nos. 34630 and 34220 of 2016, are concerned, they have done their schooling upto 10th standard and due to unavoidable circumstances, taken the SSLC Board examination privately. Later, they have done their +2, through regular schooling. Upto 9th standard they have attended the school and only for final year, they have appeared for the examinations privately. Further it is noted that the candidates have obtained Higher Secondary Course pass certificate (+2) through regular schooling." 16. In the case of Sudha Rani.K (supra), this Court has held thus: 16. Explanation (2) of Rule 5 makes it clear that the applicant who has obtained 10+2 or graduation/post graduation through open universities system directly without having any basic qualification for prosecuting, such students are not eligible for admission in the law course. This makes it very clear that the qualification prescribed for three years as well as integrated law course, it is as per the basic qualification prescribed therein matters and the qualification obtained by open University or a private study, it is not a qualification for the purpose of consideration. 17. In the case of Prasanna v. The Principal (W.P. No. 206192/2015 DD 4.10.2016) (2017 (1) AKR 175), this Court while considering the communication addressed by the University that the candidate's admission for 3 years Law course was not approved as he had passed two years pre-university course either as a private student or through National Institute of Open schooling (NIOS) held that student had studied 1st to 10th standard as a regular student and has secured SSLC marks card issued by the SSLC Board. It was also not in dispute that he studied PUC through correspondence and after passing +2 correspondence course, petitioner has studied I degree in Bachelor of Commerce from Gulbarga University. After studying three years degree course he has obtained degree certificate from Gulbarga University. The objection of the University was that the student had completed his PUC as a private candidate from NIOG and had not attended PUC course as a regular student, as such did not possess the basic qualification stipulated in terms of Rule 5 of the Rules, this Court has categorically observed that the petitioner student has not studied his graduation through open university or by way of correspondence course. He has studied graduation and obtained degree in Bachelor of Commerce as a regular student from Gulbarga University. Therefore, explanation appended to Rule 5 has no application to the petitioner. 18. The scope of explanation was considered by the Hon'ble Apex Court in the case of S. Sundaram Pillai, etc. v. V. R. Pattabiraman, AIR 1985 SC 582, it is significant to refer to the same which reads as follows:

"52. Thus, from a conspectus of the authorities referred to above, it is manifest that the object of an Explanation to a statutory provision is- (a) to explain the meaning and intendment of the Act itself, (b) where there is any obscurity or vagueness in the main enactment, to clarify the same so as to make it consistent with the dominant object which it seems to subserve, (c) to provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful, (d) an Explanation cannot in any way interfere with or change the enactment or any part thereof but where some gap is left which is relevant for the purpose of the Explanation, in order to suppress the mischief and advance the object of the Act it can help or assist the Court in interpreting the true purport and intendment of the enactment, and (e) it cannot, however, take away a statutory right with which any person under a statute has been clothed or set at naught the working of an Act by becoming an hindrance in the interpretation of the same." 19. In the light of the said judgment, the explanation has to be given effect to, as a whole to make it consistent with the dominant object of the Rules in order to make it meaningful and purposeful. The language employed indicates the object and intent of the explanation. If the intention of the rule makers was to prohibit the applicants who have obtained 10+2 or graduation/post-graduation through open University system, the phrase " directly without having any basic qualification for prosecuting such studies" ought not have employed, these words cannot be set at naught; It cannot be read in isolation. A reading of the explanation as a whole, suggests that 10+2 or graduation/post-graduation through open university system would not be a bar for admission to law courses but the embargo placed is in obtaining such qualification without having any basic qualification for prosecuting such studies. Thus, it is clear that a candidate without attending the school for 10 years completes 10+2 directly through open university, is not eligible for 5 years integrated law course. Similarly jumping the queue at their convenience i.e., not completing 10+2, directly completing graduation through open university cannot be considered as eligible for admission to 3 years LL.B., course. In a case relating to the candidate wherein, the student studied Senior Secondary school and I year PUC in the regular schooling but II PUC in private, this Court held that there is no bar for the candidate to complete +2 course in private (W.P.No.10458/2016 DD 29.08.2016) (Reported in 2017 (1) Kant LJ 190). Applying the same principles, this Court in (W.P. No. 55888/2014) has held that studying in private for II PUC would not be a bar to the student to get admission to 5 years Law course. As a sequel, it cannot be said that a candidate who has completed the 3 years degree course/first degree through open university system after successfully completing 10+2 in a regular schooling is not eligible for admission to 3 years Law course. Likewise, the students who have obtained +2 certificate through Open University system without having basic qualification i.e. 10th are not eligible for admission in five years law course. The clarification issued of the Bar Council of India dated 03.11.2015 addressed to the Upalokayukta is binding on the BCI. It is considering the complaint of six students of law college as regards the eligibility of students for admission to law courses alleging refusal of examination fee by

the Karnataka State Law University, the clarification was issued. Based on the said clarification, colleges have admitted the students for law courses. Resisting such a clarification has become unavailable. 20. Annamalai University case (2009 AIR SCW 2087) [supra], was rendered by the Hon"ble Apex Court in the context of the challenge to the post of the Principal in Film and Television Institute wherein, the candidate possessed M.A. Degree through Open University system, without there being a first [Bachelor- s] Degree. The BCI is well within its rights to insist that an applicant holding a qualification through Open University directly without possessing the basic qualification to acquire such qualification is not eligible for law course in terms of the judgment of the Hon"ble Apex Court in Annamalai University case (2009 AIR SCW 2087) [supra] but the said judgment would not come to the assistance of the BCI to contend that acquiring a qualification through Open University itself is a bar for admission to law course as envisaged in the Explanation to Rule 5. 21. Rule 7 of the Legal Education Rules, 2008 prescribes minimum percentage of marks to be secured in the qualifying examination to get admission to the LL.B., degree course, which reads thus: "7. Minimum marks in qualifying examination for admission Bar Council of India may from time-to-time, stipulate the minimum percentage of marks not below 45% of the total marks in case of general category applicants, 42% for OBC category and 40% of the total marks in case of SC and ST applicants, to be obtained for the qualifying examination, such as +2 Examination in case of Integrated Five Years- course or Degree course in any discipline for Three years- LL.B course, for the purpose of applying for and getting admitted into a Law Degree Program of any recognised University in either of the streams. Provided that such a minimum qualifying marks shall not automatically entitle a person to get admission into an institution but only shall entitle the person concerned to fulfil other institutional criteria notified by the institution concerned or by the Government concerned from time-to-time to apply for admission." 22. This Court in W.P. Nos. 44350/2016 and connected matters (D.D. 23.11.2016) held that, according to the amendment made to the Rules of Legal Education, 2008 w.e.f., 09.02.2014, the Bar Council of India stipulated the minimum percentage of marks not below 42% for OBC category, the university has to incorporate the amendment made to the Bar Council of India Rules which is the statutory Authority. 23. In this background, the factual aspects of the cases involved herein, are analysed as follows: W.P.No.56941-946/2014, petitioners 1 to 5 were denied admission for 5 years Law course as they completed II PUC or (+2), through open university, Admission was refused to respondent No.6 for possessing low percentage. Notwithstanding completing degree bridge course equivalent to II PUC through open university and securing required percentage of marks to join B.A. LL.B., course, the petitioners 1 to 5 are entitled to admission for five years Law course subject to production of certificates for having completed Higher Secondary school examination and the I PUC. Petitioner No.6 has completed 2nd PUC in regular course, however he had not secured the required percentage of marks to join B.A., LL.B course, he joined degree bridge course through Open university (equivalent to II PUC) and has secured required

percentage of marks to join B.A., LL.B course. The university ignoring the marks secured through open university refused the admission, which cannot be sustained. Petitioner No.6 is eligible for admission to 5 years LL.B course. W.P. No. 51770/2015- the petitioner had failed in Higher Secondary school examination, then completed successfully the same through open university, further studied PUC in CBSE and graduation through Manasa Bharati University [three years course]. There is no inhibition for the university to approve the admission to 3 years LL.B. course subject to recognition of Manasa Bharti University. W.P. No. 57599/2015- the petitioner completed 10th standard and I year PUC in regular course. II PUC in private and degree in regular course, as such the University cannot deny the approval of admission only for the reason that he has completed II PUC through private. The University is directed to approve the admission of the petitioner for three years LL.B. course. W.P. No. 56213/2016 - the candidate has completed the X std. in distinction through regular Karnataka Secondary Education Examination Board and thereafter completed her commercial practise conducted by the Board of Technical Examination, Department of Technical Education, Bangalore. Subsequently, completed 3rd and 4th semester B.Com examination through regular course and III year B.Com. degree examination through Karnataka State Open University during April/May, 2014. In the facts and circumstances of the case, the university shall approve the admission of the petitioner to three years LL.B. course. W.P. No. 58495/2016- the petitioner has completed the Higher Secondary schooling, +2 through open university (Degree bridge course equivalent to 10+2) and the three years degree course through CMJ University, Meghalaya. The petitioner is entitled to admission for three years law course subject to production of recognition certificate of CMJ university, Meghalaya. W.P. No. 63750/2016 - the petitioner is a OBC candidate. She has completed her 10th standard, 3 years Diploma course and BBA [three years course] through distance education. There is no dispute regarding the eligibility as per the distance education is concerned. The proviso to Rule 5 makes it manifestly clear that a candidate who has completed +2 Higher Secondary pass certificate or I degree certificate after prosecuting studies in distance or correspondence method, shall be considered as eligible for admission. The reason for denying admission for the candidate is with respect to low percentage. Indisputably, the candidate has secured 42.36%. Rule 7 of the BCI Rules prescribes 42% of the total marks in case of OBC students. Hence, the university shall approve the admission of the petitioner to the 3 years LL.B., course. In the result, the petitions are disposed of in the terms indicated above. Order accordingly.