

**\*THE HONOURABLE SRI JUSTICE A.GOPAL REDDY**

and

**THE HONOURABLE SRI JUSTICE SAMUDRALA GOVINDARAJULU**

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**+ W.P.Nos.16585, 18135, 19072, 19076, 20521, 21977, 22588,  
22587, 19945,17100, 17966 & 23658 of 2009**

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**% 31-12-2009**

**WP NO.16585/2009:**

#B. Mallesham ..Petitioner

Vs.

\$1. The Bar Council of India represented by its Secretary, New Delhi  
and others. ..Respondents

! Counsel for the petitioner : Mr.B.H.R. Chowdhary  
Mr. G.Madhusudhan Reddy

^ Counsel for the 1<sup>st</sup>&2<sup>nd</sup> respondents : Mrs. S.Nanda  
Counsel for the 3<sup>rd</sup> respondent: Mr. Sudesh Anand

< Gist:

>Head Note

- ?1. (1995) 1 SCC 732
2. 1990 (1) An.W.R. 648
- 3.1995 Suppl .(2) SCC 235
- 4.AIR 1967 SC 1889
- 5.AIR 1967 SC 52
- 6.2008 (3) ALD 624
- 7.(2007) 12 SCC 210
8. AIR 1972 AP 206
9. 2002 (3) ALD 716 (DB)
10. 2000 (2) ALD 487
11. (1995) 1 SCC 732
12. 1995 Supp (2) SCC 235

13. 1990(1) An.W.R. 648  
14. (2009) 4 SCC 590

**THE HONOURABLE SRI JUSTICE**  
**A.GOPAL REDDY**  
**and**  
**THE HONOURABLE SRI JUSTICE**  
**SAMUDRALA GOVINDARAJULU**

**W.P.Nos.16585, 18135, 19072, 19076, 20521, 21977, 22588, 22587,**  
**19945,17100, 17966 & 23658 of 2009**

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Date of Order: 31 --12—2009

**CT in W.P.No.16585 of 2009**

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B.Mallesham

..Petitioner

and

1.The Bar Council of India rep. By its Secretary,  
New Delhi and others.

..Respondents

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The Court made the following Common Order:

**THE HONOURABLE SRI JUSTICE**  
**A.GOPAL REDDY**  
**and**  
**THE HONOURABLE SRI JUSTICE**  
**SAMUDRALA GOVINDARAJULU**

**W.P.Nos.16585, 18135, 19072, 19076, 20521, 21977, 22588, 22587,**  
**19945,17100, 17966 & 23658 of 2009**

**Common Order:** (Per Honourable Sri Justice ***A.Gopal Reddy***)

1. In all these batch of writ petitions, petitioners are seeking quashing of the Explanation added to Rule 5 of Rules of Legal Education, 2008 (for short “the Rules, 2008”) and for a consequential direction directing the respondents to admit them into three years Law Course during the academic year 2009-2010.
2. The petitioner in W.P.No.16585 of 2009, who passed SSC in 2003 without prosecuting two years Intermediate Course obtained B.A. Degree through Dr.B.R.Ambedkar University in 2009 appeared for LAW CET and secured 1006 rank, was denied admission on the ground that he has not prosecuted 10+2 and directly obtained degree through Open University and not eligible for admission as per the Explanation added to Rule 5.
3. The petitioner in W.P.No.18135 of 2009 on passing SSC examination in the year 1995 without prosecuting two years Intermediate Course obtained B.A. Degree from Annamalai University

during the year 2008 and qualified in LAW CET. When she approached 5<sup>th</sup> respondent—College for admission into three years Law Course she was informed that she is not eligible to get admission as per Rules.

4. The petitioner in W.P.No.19072 of 2009, who completed SSC Examination in the year 1996 could not pursue Intermediate Course but obtained B.A. degree by way of Distance Education from Andhra University, appeared for LAW CET and qualified. When he approached the 5<sup>th</sup> respondent—College for admission into three years LLB Course, he was informed that as per Rules of Legal Education he was not eligible to get admission into three years Law Course.

5. The petitioner in W.P.No.19676 of 2009 on obtaining SSC qualification in the year 1996 joined two years Intermediate Course but discontinued the same. He completed Graduation in Commerce by Distance Media from Kakatiya University during the year 2004-2009, appeared and secured 4072 rank in the LAW CET but denied admission into three years LL.B. Course.

6. The petitioner in W.P.No.20521 of 2009 after obtaining Secondary School Certificate in 2002 could not prosecute Intermediate Course but obtained B.A. Degree from Dr.B.R.Ambedkar Open University in 2008. He appeared and qualified in LAW CET but he was denied admission on the ground that he has not prosecuted 10+2.

7. The petitioner in W.P.No.21979 of 2009 after passing SSC examination in the year 2002 without undertaking Intermediate Course obtained B.A. Degree from Andhra University by Distance Education, appeared for Entrance Test and secured rank in LAW CET but he was

denied admission into three years Law Course.

8. Three petitioners in W.P.No.22588 of 2009 without prosecuting two years Intermediate Course directly obtained B.A. Degrees from Kakatiya University and Dr.B.R.Ambedkar University. Though they were qualified in LAW CET, they were denied admission into three years Law Course.

9. The petitioner in W.P.No.22587 of 2009 after completion of SSC examination in the year 1994 joined Intermediate Course but discontinued the same and obtained B.A. degree directly from Dr.B.R.Ambedkar Open University while working as Record Assistant in the High Court of Andhra Pradesh. Though he qualified in the LAW CET, he was denied admission into three years Law Course on the ground that he has not prosecuted 10+2.

10. The petitioner in W.P.No.19945 of 2009 completed SSC Examination in the year 1991, discontinued Intermediate Course and Graduation Course, obtained Post Graduation in M.A. Sociology through Madhurai Kamaraj University, appeared for LAW CET and qualified in the same, but denied admission into three years Law Course.

11. The petitioner in W.P.No.19945 of 2009 completed SSC Examination in the year 1996, obtained B.Com Degree in 2002 from School of Distance Education and also completed MBA from Andhra University by Distance Education, appeared for LAW CET and got 3023 rank, but denied admission on the ground of not having 10+2+3 qualification.

12. The petitioner in W.P.No.17966 of 2009 after obtaining

Secondary School Certificate in the year 2000, completed Sahitya Ratna (said to be equivalent to B.A. Degree Course) and M.A. (Hindi) by Distance Education in the year 2007 appeared for LAW CET, 2009 and qualified in the same, but denied admission into three years LL.B. Course.

13. The Petitioner in W.P.No.23658 of 2009 on obtaining SSC qualification in the year 1989 without prosecuting two years Intermediate Course directly obtained B.A. Degree from Kakatiya University, appeared for LAW CET and got 8880 rank, but did not get admission into three years Law Course.

14. Respondent No.1—Bar Council of India (BCI) filed a counter affidavit, opposing the writ petitions, contending that curriculum for LL.B. Course, which was in force prior to 14-09-2009, was prepared and implemented more than a decade ago. Due to the changed circumstances, namely, economic changes, globalisation, increase of international trade and commerce by metes and bounds, necessitated drastic changes in the education system also and regulation of all major professional courses to meet the challenges to bring it on par with such education elsewhere in the World. The BCI took up the task of revising the curriculum for professional courses in consultation with the Universities imparting legal education and the State Bar Councils. The BCI framed Rules under the Advocates Act, 1961 (for short “the Act”) for laying down the standards in legal education to be complied with by the various Universities imparting legal education in the country with the Part-IV of BCI Rules and the same has been approved and adopted by BCI in its meeting held on 14-09-2008 vide Resolution No.110/2008. The said Rules were framed to standardize the legal education and recognition

of degrees in Law for the purpose of enrolment as advocates and inspection of University for recognizing its degrees in Law. Rule 5 of Rules, 2008 prescribes eligibility criteria for admission into Three Year Law Degree Course and Integrated Five Years Course; Rule 7 deals with minimum marks in qualifying examination for admission and Rule 8 lays down standard of courses. In the light of Explanation to Rule 5, petitioners are not eligible for admission into three years Law Course, since they took degree without obtaining 10+2. The petitioners, who after having completed high school education did not do the regular Intermediate Course and obtained B.A. and other degrees, are not entitled to seek admission into three years Law Course.

The BCI vide resolution No.79 of 2009 in its meeting held on 27-06-2009 decided B.A. degree obtained by S.H.Santha Kumar Sharma from IGNOU cannot be treated on par with regular degree obtained from the recognized University. In view of the Explanation to Rule 5, prescribing qualification to get them admitted into three years Law Course, petitioners were rightly denied admission, since they did not have 10+2.

15. The BCI is a statutory body constituted under Section 4 of the Act to lay down the standard of legal education and recognition of degree in law for the admission as an advocate. The said power was assigned to its sub-Committee known as "Legal Education Committee" constituted by the BCI under Section 19(2)(b) of the Act. The Legal Education Committee after elaborate study finalized the remaining schedule of BCI Rules in Part-IV relating to the standard of legal education and recognition of degree in Law for admission as an advocate. Though the Explanation to Rule 5 was not added, BCI in its meeting held on 14-09-2008 by resolution No.110/2008 accepted the

recommendations of the Legal Education Committee. While confirming the Minutes of the Bar Council of India and on suggestions made to amend certain part of rules, Bar Council of India in its resolution No.137/2008 resolved to add explanation to Rule 5 in tune with the recommendations made by Legal Education Committee.

16. The grounds of challenge briefly stated are thus:

1. The BCI went beyond the power envisaged under the Act by prescribing minimum qualification i.e. pre-graduation stage. We find it difficult to accept the contention.
2. There is no material in taking a decision to prescribe minimum qualification 10+2 for admission into three years Law Course. Hence the same is arbitrary.
3. Prescribing minimum qualification violates Article 14, since it amounts to discrimination in two homogeneous groups of graduates, namely, regular graduates and graduates who obtained degree in Open University by Distance Education.
4. The BCI's decision is ante-poor.

17. Smt. Manchakalapati Renuka, learned counsel for the petitioner in W.P.No.18135 of 2009 contended that under Section 7(h) of the Act the functions of BCI is to promote legal education and to lay down standards under the rule-making power under Section 49 of the Act. The BCI can prescribe a degree from any recognized University as minimum qualification required for admission into a course, but how the degree is obtained is immaterial. Therefore, rule-making power cannot go beyond prescribing the minimum qualification. She placed strong reliance on the following judgments:

**1. INDIAN COUNCIL OF LEGAL AID AND ADVICE v. BAR COUNCIL OF INDIA**



[\[1\]](#)

2. ***P.BASI REDDY v. GOVERNMENT OF ANDHRA PRADESH***[\[2\]](#)

3. ***V.N.SUNANDA REDDY v. STATE OF A.P.***[\[3\]](#)

18. Sri J.Sudheer, learned counsel for the petitioner in W.P.No.20521 of 2009, contended that once the source of power for framing the Rules for BCI is from Section 7(1)(h) (i); under Section 49(1)(af) the BCI being a statutory body cannot go beyond its power to fix the minimum qualification required for admission, where it prescribed 10+2 for five years Integrated Course and 10+2+3 for three years Law Course. Section 7(H) of the Act prescribes the powers and functions i.e. to promote legal education and lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils. In the counter it is not stated such consultation process was undertaken before Explanation is added to Rule 5. For the said proposition reliance is placed on the following judgments.

1. ***ROSHAN LAL TANDON v. UNION OF INDIA***[\[4\]](#)

2. ***MERVYN CONTINHO v. COLLECTOR OF CUSTOMS***[\[5\]](#)

He further contended that for discrimination of two homogeneous groups of graduates: 1.who obtained B.A. degree directly from the recognized University and 2.who obtained degree in normal course, there is no material to treat them as different classes. He also contended that the BCI's decision is ante-poor, since the poorer sections, who could not prosecute the regular school education, did hard work, acquired graduation and come up in their life, cannot be denied admission. For which he placed strong reliance on the following judgments.

1.***G.RAVI KUMAR v. DISTRICT AND SESSIONS JUDGE, NALGONDA***[\[6\]](#)

**2. INSTITUTE OF CHARTERED FINANCIAL ANALYSTS OF INDIA v. COUNCIL OF THE INSTITUTE OF CHARTERED ACCOUNTS OF INDIA<sup>[7]</sup>**

He also made a feeble submission that the Rules, 2008 came into force from September, 2008, which cannot be applied retrospectively. Since the petitioners obtained degrees before September, 2008, the same cannot be made applicable to them.

19. Sri Ch.Ramesh Babu, learned counsel for the petitioner in W.P.No.22587 of 2009 contended that BCI can only prescribe qualification for enrolment, but not for acquiring degree.

20. Sri K.S.Murthy, learned counsel for the petitioner in W.P.No.19945 of 2009 contended that while inserting Explanation to Rule 5 what is the object sought to be achieved has not been explained and the same has no nexus to the objects sought to be achieved and the same is irrational. It is total non-application of mind without there being any power to make standards in legal education but the same will not authorize to prescribe standards in pre-graduation level, namely, 10+2.

21. Sri J.Prabhakar, learned counsel for the petitioner in W.P.No.23658 of 2009 contended that though the petitioner was given admission into Law Course in convener quota in the 5<sup>th</sup> respondent—College, since the same is not ratified, the said seat was allotted to some other candidate and now the seats are vacant in the 6<sup>th</sup> respondent—College and it is not prepared to admit unless necessary directions are obtained from the Court. In spite the petitioner could secure good rank and compete on par with the others he was denied admission only by virtue of Explanation added to Rule 5. Therefore,

the same is liable to be set aside.

22. Smt.S.Nanda, learned standing counsel for the 1<sup>st</sup> respondent—Bar Council of India, per contra, while justifying the Rules framed by the BCI would contend that the functions of BCI is to promote legal education and lay down the standards in consultation with the Universities imparting legal education and State Bar Councils and to recognize Universities whose degree in Law shall be qualification for enrolment as an advocate to the said purpose. The BCI will have power to inspect the Universities and can do all other things necessary to discharge the aforementioned functions. Section 2(h) of the Act defines the word law graduate, which means a person who has obtained a bachelor's degree in law from any University established by law in India. Under Section 24 of the Act it is prerogative of the BCI to admit an advocate on the state rolls. Under the rule-making power the BCI can make rules prescribing minimum qualification to admit into a course of degree in Law and the class or category of persons entitled to enroll as an advocate. She also contends that laying standards in legal education also includes power to define a standard of general education as a condition for admission into Law Course.

23. Sri Sudesh Anand, learned standing counsel for the State Council for Higher Education submitted that Convener do not allot any candidates. The counselling was held 10-08-2009 and last date for admission is 31-08-2009, classes were commenced on 07-09-2009.

24. Before we proceed to examine the merits of submissions and counter submissions made by the counsel, it is relevant to summarize the statutory provisions of the Advocates Act and Rule impugned.

**Section 2 (a):** "advocate" means an advocate entered in any roll under the provisions of this Act.

**Section 2(h):** "law graduate" means a person who has obtained a bachelor's degree in law from any University established by law in India.

**Section 7(1)(h):** 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;

(i) to recognize Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities.

(ia) to conduct seminars and organize talks on legal topics by eminent jurists and publish journals and papers of legal interest;

(ib) to organize legal aid to the poor in the prescribed manner;

(ic) to recognize on a reciprocal basis foreign qualifications in law obtained outside India for the purpose of admission as an advocate under this Act.

**Section 24** Persons who may be admitted as advocates on a State roll

(1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfils the following conditions, namely:

(a) he is a citizen of India:

**Provided** that subject to the other provisions contained in this Act, a national of any other country may be admitted as an advocate on a State roll, if citizens of India, duly qualified, are permitted to practice law in that other country;

(b) he has completed the age of twenty-one

years;

(c) he has obtained a degree in law

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**Section 49:** General power of the Bar Council of India to make rules—

(1) The Bar Council of India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe

(af) the minimum qualifications required for admission to a course of degree in law in any recognized University;

(ag) the class or category of persons entitled to be enrolled as advocates;

(d) the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose.

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**Rule 5 of Rules, 2008:** 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 recognized as a Deemed to be University or foreign University recognized as equivalent to the status of an Indian University by an authority competent to declare equivalence, may apply for a three years' degree programme in law leading to conferment of LL.B. degree on successful completion of the regular programme conducted by a University whose degree in law is recognized by the Bar Council of India for the purpose of enrolment.

(b) **Integrated Degree Programme:** 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

recognized University of India or outside or from a Senior Secondary Board or equivalent, constituted or recognized by the Union or by a State Government or from any equivalent institution from a foreign country recognized 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 Centers of Legal Education to obtain the integrated degree in law with a degree in any other subject as the fit degree from the university whose such a degree in law is recognized 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.

25. We shall scrutinize the respective contentions of the learned counsel and the position of law with reference to the relevant rules and the various judicial pronouncements of this Court and the Supreme Court in series of decisions dealing with powers vested in the BCI.

26. From the scheme of the Act, Section 7(1)(h) deals with promotion of 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 to recognize Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities; to verify legal standards and give necessary instructions in the manner of conducting three years or five years Law Course as the case may be. Section 24 deals with enrolment of law graduate to be admitted as an advocate on a State roll. Under Section 49, the BCI is conferred with the power to make rules for laying the standards of legal education in consultation with the Universities. Clause (af) of sub-section (1) of Section 49 authorizes BCI to make rules prescribing minimum qualifications required for admission to a course of degree in law in any recognized University. Clause (ag) of sub-Section (1) of Section 49 deals with class or category of persons entitled to be enrolled as advocates. Clause (d) of sub-Section (1) of Section 49 envisages the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose.

27. In exercise of rule-making power, the BCI framed Rules, 2008 prescribing the eligibility for admission into Three Year Law Degree Course and Integrated Degree Programme.

28. The Legal Education Committee under the Chairmanship, Mr. Justice A.P.Mishra, Former Judge of Supreme Court, consisting of Honourable Judges of the Supreme Court, namely, Justice, A.S.Anand, Justice S.C.Agarwal, Justice K.N.Saikia, Justice A.P.Mishra and Justice V.S.Sirpurkar and also Justice A.K.Patnaik, Chief Justice of Madhya Pradesh, as members besides Dr.N.L.Mitra, former Director NLSIU, Bangalore and National Law School, Jodhpur apart from members of the Bar Council of India after due

deliberations/consultations for nearly two years prepared draft rules and curriculum and sent to the Universities imparting Legal Education and State Bar Councils as a part of consultation as provided for under the Advocates Act, 1961. The Bar Council of India through its Resolution No.110/2008, dt. 14-10-2009 accepted the revised rules with effect from 2009-2010.

29. This Court in **BAR COUNCIL OF INDIA v. G.KESAVARAMAYYA**<sup>[8]</sup> while dealing with competence of Bar Council of India to take steps for promotion of legal education and in pursuit of that objective to lay down standards of such education held as under:

“The clause (h) of Section 7 does not lend itself to the narrow construction advocated by counsel. It is competent for the Bar Council. It is competent for the Bar Council of India to take steps for the promotion of legal education and in pursuit of that objective to lay down standards of such education. Is it consistent with reason to urge that standards of legal education can be prescribed without the prior equipment or accomplishments of students of law? It is a mere illusion to think that without the foundational general education, sound standards of legal education can be achieved.

The expression "standards of such education" is sufficiently wide to enable the Bar Council to insist upon a minimum level of general education as a steppingstone for taking up the study of law. It is well known that for a proper comprehension of subjects like jurisprudence, constitutional law etc., a fairly high standard of academic training is indispensable. The ability to grasp and assimilate principles of law cannot be expected of a person who has not obtained a degree in arts, science or commerce. How can standards of legal education be maintained or promoted unless



persons admitted to the study of law have the standard of ability or the faculty of comprehension to imbibe the essential principles of law?

We are clearly of opinion that the function of laying down standards of legal education necessarily implies the power to define a standard of general education as a condition for admission to a course of law. There standard of legal education cannot be disassociated from the antecedent equipment of general education. We cannot accede to the contention of Mr. Ramanujachari that clause (h) of Section 7 ought to be understood as excluding the power to fix a minimum academic standard as a pre-requisite for the commencement of studies in law.”

...It is nevertheless a function of the BCI under clause (i) of Section 7(1) to recognize Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities. The necessary implication of clause (i) read along with clause (n) of Section 7 is that it is permissible for the Bar Council of India to restrict recognition to the law degrees conferred by Universities which ordain as a precondition graduation before the commencement of a course of study in law. It is within the competence of the Bar Council of India to accord recognition of degrees of law subject to the condition that the commencement of legal education should be preceded by graduation.

Having defined ‘law graduate’ under Section 2(h) the legislature has chosen under Section 24 to confer the power of recognition of degrees of law on the Bar Council of India. The power exercisable under Section 24 cannot be nullified by reference to the definition clause in Section 2 (h). (*See paras 15, 16, 17, 18 and 19*)

***SOCIETY v. GOVERNMENT OF ANDHRA PRADESH***<sup>[9]</sup> after referring clause (h) of sub-section (1) of Section 7; clause (af) of sub-section (1) of Section 49; clause (d) of sub-section (1) of Section 49; clause (i) of sub-section (1) of Section 7; clause (ag) of sub-section (1) of Section 49 held that the Bar Council of India is vested with certain important powers to regulate and promote legal education as well as legal profession. The provisions of Section 7 (h) and (i), 24 (1) (c) (iii) and (iiia), 49 (1) (af) (ag) and (d) of the Act if read conjointly, it makes it abundantly clear that the Bar Council of India will be competent to prescribe the requirement of obtaining approval to affiliation of a Law College from it as a condition precedent to recognize its degrees of law awarded by the University to which it is affiliated for enrolment as an advocate, as has been done in Rules 17, 18 and 19. After referring to the earlier judgments of this Court in ***C.M.BALARAM v. REGISTRAR, OSMANIA UNIVERSITY***

(AIR 1998 AP 105) wherein this Court held that Bar Council of India has the power and jurisdiction not to approve any Law College within the country not complying with the basic norms of the Bar Council of India after conducting inspection by its inspection teams and upheld the vires of Rules 17, 18 and 19 of the Rules.

31. A learned single Judge of this Court in ***VEERAVALLI COLLEGE OF LAW, RAJAHMUNDRY v. BAR COUNCIL OF INDIA***<sup>[10]</sup> while dealing with the rejection extension of affiliation for three years (evening) law course section in the petitioner's college observed that as recently as in 1993, the Committee of Judges constituted by the Honourable the Chief Justice of India has made various recommendations to improve the quality of legal education. The Committee *inter alia* recommended that five-year system of law course after 10 + 2 level be introduced. There is no doubt that the

impugned order by the first respondent is passed keeping in view this recommendation and there cannot be any challenge to the order passed by the Bar Council of India on the grounds of arbitrariness and unreasonableness. Further, it is conceded that the Bar Council of India is the apex authority to grant affiliation and oversee the quality of legal education in this country by virtue of the rules made under Section 49 of the Advocates Act, 1961 and upheld the order passed by the Bar Council of India rejecting extension of affiliation for three years (evening) section.

32. The main thrust of Sri J.Sudheer, learned counsel for the petitioner in W.P.No.20521 of 2009 is that Explanation added to Rule 5 by the BCI is discriminatory among the graduates who obtained degree after prosecuting two years Intermediate Course and those who have obtained degree without prosecuting two years Intermediate Course. For the said purpose strong reliance is placed on the judgment of the Supreme Court in ***ROSHAN LAL TANDON v. UNION OF INDIA*** (4 supra) where the Supreme Court was dealing with the matter of promotion to Grade 'C' between direct recruits and promotees and held that no discrimination can be made between them for future promotions which violates Article 14.

33. Similarly, Constitutional Bench of the Supreme Court in ***MERVYN CONTINHO v. COLLECTOR OF CUSTOMS*** (5 supra) while dealing with the recruitment to the post of Principal Appraisers, which prescribes 50% reservation for direct recruits and the remaining 50% for the promotees in the Customs Department, held the source of recruitment of Principal Appraisers is one, namely, from the grade of Appraisers. There is, therefore, no question of any quota being reserved from two sources in their cases. In so far, therefore, as

the respondent is doing what it calls restoration of seniority of direct recruits in Appraisers' grade when they are promoted to the Principal Appraisers' grade, it is clearly denying equality of opportunity to Appraisers, which is the only source of recruitment to the Principal Appraisers' grade. When there is only one source of recruitment, the normal rule will apply, namely, that a person promoted to a higher grade gets his seniority in that grade according to the date of promotion subject always to his being found fit and being confirmed in the higher grade after the period of probation is over. In such a case it is continuous appointment in the higher grade, which determines seniority for the source of recruitment is one.

34. This Court in **G.RAVI KUMAR v. DISTRICT AND SESSIONS JUDGE, NALGONDA** (6 supra) while considering the case of an attendant in A.P.Last Grade Service working in Unit of District Court, Nalgonda, who obtained B.A. degree from Open University without possessing pre-degree qualification like SSC or Intermediate held Rule 8 of A.P. Ministerial Service Rules does not specifically disqualify Copyists with Degree qualification for being considered for promotion to the post of Junior Assistant. Whether degree awarded by the Open University is equivalent to the degree awarded by any other University was already considered by this Court in **MUTHYALA ASHOK v. SHYAMSUNDER** (2002 ALD Supp (1) 525. Therefore, petitioner cannot be said to be disqualified merely because he directly appeared for B. A., examination conducted by Dr.B.R.Ambedkar Open University without basic qualification. Very concept of Open University is to encourage citizens to acquire better qualification ignoring whether or not they were having pre-degree qualification. One should not forget that under Article 51a (j) of

Constitution, it shall be duty of every citizen to "strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement". If a citizen acquired higher qualification even though he was denied opportunity to acquire pre-degree qualification by reason of social and economic backwardness, he cannot be turned away on the ground that though he has higher qualification, he lacks basic qualification.

35. In **INDIAN COUNCIL OF LEGAL AID & ADVICE V. BCI**<sup>[11]</sup> the Supreme Court while dealing with the jurisdiction of the Bar Council of India under Cl.(ag) of Sec.49(1) where Bar Council lays down the 'conditions' subject to which "an advocate" shall have the right to practice, struck down the condition barring enrolment of persons who have completed 45 years of age and also struck down the rule as discriminatory on the ground that once persons who have enrolled as advocates cannot be discriminated for practice by holding that Cl.(ag) of Section 49 (1) of the Advocates Act does not confer any such power on Bar Council of India, but the same is not the case on hand. The Bar Council of India had power to regulate the admission into law course and recognize such degree for the purpose of enrolling as advocates. The other two judgments, namely, **V.N. SUNANDA REDDY V. STATE OF A.P.**<sup>[12]</sup> and **P.BASI REDDY EDUCATIONAL SOCIETY V. GOVT.OF A.P.**<sup>[13]</sup> are not on the point and are not relevant to the lis involved in the present writ petitions.

36. The Supreme Court in **ANNAMALAI UNIVERSITY v. SECY. TO GOVT. INFORMATION & TOURISM DEPT.**<sup>[14]</sup> referred to the regulations, framed in exercise of powers conferred upon UGC by clause (f) of sub-section (1) of Section 26 of the UGC Act; namely,

*“Admission/students.—(1) No student shall be eligible for admission to the first degree course through non-formal/distance education unless he has successfully completed 12 years’ schooling through an examination conducted by a board/university. In case there is no previous academic record, he shall be eligible for admission if he has passed an entrance test conducted by the University provided that he is not below the age of 21 years on July 1 of the year of admission.”*

and upheld the order passed by the High Court that M.A. degree obtained through Open University System, without there being a first (Bachelor’s) degree, was not a valid one and accordingly directed the State Government to take steps to fill up the vacancy of Principal in accordance with law. The system of imparting education between a Conventional University and Open University is different and governed by UGC Act and Open University Act respectively.

37. Further, the Supreme Court in para-41 of its judgment held the alternative system envisaged under the Open University Act is not in substitution of the formal system in the matter of ensuring the standard of education. The distinction between a formal system and an informal system is in the mode and manner in which education is imparted. The UGC Act was enacted for effectuating coordination and determination of standards in universities. The purport and object for which it was enacted must be given full effect.

38. The National Knowledge Commission (NKC), constituted in 2005 as a high-level advisory body to the Prime Minister of India, calls for change in the approach to legal education. The NKC stated:

Legal education should.....prepare professionals equipped to meet the new

challenges and dimensions of internationalization , were the nature and organization of law and legal practice are undergoing a paradigm shift. Further, there is need for original and path breaking legal research to create new legal knowledge and ideals that will help meet these challenges in a manner responsive to the needs of the country and the ideals and goals of our Constitution.

The NKC report calls for education of Indian lawyers to be ready for law practice in the global legal environment so that Indian Lawyers can serve India's needs—those of all its citizens, businesses, government, and N.G.Os. That is, global readiness is forecast as an integral part of general legal practice of the future, rather than as the domain of a small cadre of international law specialists, "Path-breaking legal research to create new legal knowledge and ideas" must also be understood to include representation of India's poor people, to improve their access to justice. Access to justice includes access not only to dispute resolution but also access to education, means for meeting basic needs and other human rights.

39. The task of regulating legal education is mammoth, as there are over 904 approved law colleges in India (see List of Approved Law Colleges (as of October, 1, 2008) Bar Council of India web site) offering law courses. To meet the global challenges, Government bodies, including the Bar Council of India, Law Commission of India and University Grants Commission, have convened expert panels that have recommended legal education reforms, some of which have been implemented and some of which are pending. Over the last three decades, legal educators have recognized that increasingly law practice involves parties, events and transactions in more than one

country, legal tradition, and culture. There is spirited debate and experimentation in the legal education community on how to coherently infuse perspectives and skills into the law school curriculum and pedagogy to equip students for law practice in our increasingly interdependent world. Law schools across the world are sharing their approaches to legal education in light of the swift change in law practice resulting from the current wave of globalisation. The International Association of Law Schools, a non-profit organization founded in 2005 with a membership of educational institutions, associations, and legal educators from throughout the world, facilitates interaction among legal educators on the study of multiple legal systems and legal cultures in law school through its global conference activity and faculty recruitment postings. National level, regional level, and cross-region professional bodies provide platforms for discussion of the international dimensions of legal education. Legal scholars have named new paradigms to reflect the reality of globalization and its implications for legal practice. Brief exposure to another legal system through study abroad has been distinguished from in-depth of the mode of reasoning of another legal system besides the system in which the law school is located. To practice law transactionally, law graduates need the ability to adapt to different cultures and to communicate effectively with lawyers of other jurisdictions and legal traditions. As Universities and law schools set goals for internationalization, the university administration can track measures of activity to assess the degree of engagement. These measures do not assess whether learning goals are being met, they can provide a law school community with some strategies for infusing perspectives from other countries and legal systems. Educators are also sharing planning tools for developing inter-university agreements with



institutions aboard to expand educational opportunities for their students and faculty. The legal education reform in the framework of globalization and contemporary life focuses on the need for law graduates to be equipped with a broad range of lawyering skills when they enter the profession. While society will always need litigators, the heavy emphasis on litigation in the traditional law school curriculum warrants fresh thinking in a globalized world in which transnational matters are best managed through advance planning and agreement. Development of problem solving invention of creative options for reaching solutions, also enhances the ability of lawyers to grasp the policy aspects of law and to contribute to policy-making in their home countries. Law students in all regions of the world are undertaking access to justice work in a variety of clinical projects.

40. Both the NKC and a high-level committee governmental committee have recommended that the professional agencies, including Bar Council of India, be divested of over academic matters to allow universities to exercise control over curricular matters. The NKC has also recommended creation of a rating system for law schools, changes in financing of legal education, measures to attract and retain talented faculty, curriculum development, changes in the examination system, measures for increasing research at law schools, and measures to increase the dimensions of internationalization of law schools. Even within the current mandated curriculum, there is scope for legal educators in India to enhance teaching and student learning and play a greater role in developing an agenda for legal education reform. The need for “socially relevant legal education” to address the legal needs of the large sector of the Indian population that is socially and economically deprived has been emphasized by Professor Upendra Baxi.

41. The Bar Council of India issued an initial instructions for establishment of five year B.A., LL.B. degree programmes in 1979, and by 1984, ten universities had begun the programme. A key breakthrough in Indian legal education has been the establishment in 1986 of a model institution, National Law School of India University in Bangalore, at which the five-year B.A., LL.B., degree programme authorized earlier was commenced with high standards. Other national law schools have been created on the Bangalore model, and numerous other law schools in India have adopted the five-year degree programme on the same lines. The national law schools are viewed as having improved legal education by introducing academic rigor, interdisciplinary perspectives to enable students to understand law in a social context, and clinical training. Professor Moolchand Sharma, an eminent law professor and then Vice chairman of the University Grants Commission, observed that the national law schools “brought hopes and positive results in making legal education more qualitatively and professionally attractive for young minds. However, inspiring the national law schools are, however, there is genuine concern about the quality of the hundreds of other law colleges across the country. Chief Justice of India, K.G.Balakrishnan, addressing convocation address at NALSAR University Law on July 21, 2007 had said that premier institutes should not only “set the standards of legal education but also work towards improving the entire chain of our legal system.”

42. Recognizing the need to update the mandated law curricula in India, the University Grants Commission (UGC), which is a governmental grant-making body responsible for maintaining quality standards in institutions of higher education in India, has periodically

convened Curriculum Development Committees of subject experts from Indian universities for law subjects. The UGC Chairman stated the purposes of the model curriculum as follows:

In any country, specially one as large and varied as India, academic institutions must be allowed enough autonomy and freedom of action to frame courses according to specific needs. The recommendations of the Curriculum Development Committees are meant to reinforce this. The purpose of our exercise has been to provide a broad common framework for exchange, mobility and free dialogue across the entire Indian academic community. These recommendations are made in a spirit of openness and continuous improvement.”

43. The Bar Council of India recognizes two types of courses for first degrees in law, the three-year Bachelor of Law (LL.B.) degree for graduates holding an initial Bachelor's degree in any discipline, and the five year joint Bachelor of Arts, Bachelor of Law (B.A., LL.B.) degree after twelfth standard. For each of these degree programmes, Bar Council of India mandates that students take not less than twenty eight law subjects, eighteen compulsory substantive law subjects and four compulsory clinical papers (classes). LL.B. students take six optional papers from three or more groups of elective topics, and for a specialised and/or honours course, a student takes an additional eight papers from one group. The list of elective course groups that may be offered is robust, including Constitutional Law, Business Law, International Trade Law, Crimes and Criminology, International Law, Law and Agriculture, and Intellectual Property Law, and a university/school may add to the subjects and groups. (See Schedule II of BCI Legal Education Rules, 2008)

44. It is not disputed that all the National Law Schools are insisting 10+2 to prosecute five years law course, but the standards are not uniform in all the law colleges where five years law degree is offered. Therefore, to have uniform standards in the law course either it is five years or three years, the BCI was vested with the jurisdiction to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and confer with the power to make the rules for laying the standards of legal education in consultation with the Universities regulate admission to the law course prescribing the qualification to get admission. When the degree obtained by formal or non-formal methods, though it is of three years duration, both cannot be equated for the purpose of admission into law course. Therefore, graduation degree obtained through regular class is a different class than those who obtained graduation without prosecuting 10+2 qualification. Therefore, the judgments on which reliance is placed by the learned counsel is not applicable to the facts of the present case.

45. Admittedly, the task to maintain legal standards was referred to an expert body like "Legal Education Committee" and the Committee after due deliberation with eminent personnel connected with the law course suggested standards to be maintained to meet the global challenges. The students who obtained graduation through regular course are well equipped and their accent is different in information and resources once they are in law practice, whereas the students who obtained bachelor's degree under Open University will not be equipped with rare degrees of qualities. Therefore, the curriculum, which was finalised by the BCI, cannot be termed as perverse or irrational to the object sought to be achieved nor can it be termed as arbitrary and illegal.

46. In view of the same, the challenge of the petitioners must fail and the writ petitions are accordingly dismissed. No order as to costs.

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A.GOPAL REDDY, J.

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SAMUDRALA GOVINDARAJULU, J

31-12-2009

*Murthy/kmr*

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[1] (1995) 1 SCC 732

[2] 1990 (1) An.W.R. 648

[3] 1995 Suppl .(2) SCC 235

[4] AIR 1967 SC 1889

[5] AIR 1967 SC 52

[6] 2008 (3) ALD 624

[7] (2007) 12 SCC 210

[8] AIR1972 AP 206

[9] 2002 (3) ALD 716 (DB)

[10] 2000 (2) ALD 487

[11] (1995) 1 SCC 732

[12] 1995 Supp (2) SCC 235

[13] 1990(1) An.W.R. 648

[14] (2009) 4 SCC 590