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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Reserved on: 31.05.2018.**

**Date of Decision: 06.07.2018.**

\+ W.P.(C) 5062/2018 & C.M. Nos.19509/2018, 19945/2018, 20815/2018

ADARSH RAJ SINGH ..... Petitioner

Through: Mr.Prashanto Sen, Sr. Adv. with Mr.Rajesh Mishra, Mr.N.K.Thakur, Advs.

versus

BAR COUNCIL OF INDIA & ORS ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh, Adv for BCI.

\+ W.P.(C) 5123/2018 & C.M. Nos.19797/2018, 20756-20757/2018

NIHARIKA SHARMA & ORS ..... Petitioners

Through Ms.Eshna Kumar with Mr.Vikrant A.Maheshwari, Advs.

versus

THE DEAN OF THE LAW FACULTY UNIVERSITY OF DELHI ..... Respondent

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.

\+ W.P.(C) 5145/2018 & C.M. Nos.19956-57/2018, 21225/2018

NIRBHAY GARG AND ORS. ..... Petitioners

Through Mr.Rajesh Mishra with Mr.Krishan Kumar, Advs.

versus

BAR COUNCIL OF INDIA AND ORS ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.
Mr.Anil Soni, CGSC with Mr.Abhinav Tyagi, Adv for UOI.

\+ W.P.(C) 5146/2018 & C.M. Nos.19958-59/2018

HARSH KADIYAN AND ORS. ..... Petitioners

Through Mr.Kirti Uppal with Mr.Ashish Virmani with Mr.Himanshu Dhuper, Advs.

versus

UNIVERSITY OF DELHI AND ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.

\+ W.P.(C) 5147/2018 & C.M. Nos.19960-61/2018

ABHISHEK KADYAN & ORS ..... Petitioners

Through Mr.Kirti Uppal with Mr.Ashish Virmani with Mr.Himanshu Dhuper, Advs.

versus

UNIVERSITY OF DELHI & ORS ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.

\+ W.P.(C) 5148/2018 & C.M. Nos.19962-63/2018

KISLAY JHA & ANR ..... Petitioners

Through Mr.Manish Kumar Chaudhary, Adv.

versus

BAR COUNCIL OF INDIA & ORS ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5153/2018 & C.M. Nos.20020-21/2018, 21221/2018

PRAFUL BENIWAL & ANR ..... Petitioners

Through Mr.Rajesh Mishra with Mr.Krishna Kumar, Advs.

versus

BAR COUNCIL OF INDIA & ORS ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.
Mr.Ripu Daman Bhardwaj, CGSC for R-5.

\+ W.P.(C) 5223/2018 & C.M. Nos.20231-32/2018

SEWAKPREET SINGH AND ORS. ..... Petitioners

Through Mr.Kirti Uppal with Mr.Ashish Virmani with Mr.Himanshu Dhuper, Advs.

versus

UNIVERSITY OF DELHI AND ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5311/2018 & C.M. No/20616/2018

DHARAM JEET ..... Petitioner

Through Dr.Sarbjit Sharma with Ms.Leeza Taneja, Advs.

versus

UNIVERSITY OF DELHI ..... Respondent

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.

\+ W.P.(C) 5313/2018 & C.M. Nos.20620-21/2018

PRIYANK KUMAR SADH ..... Petitioner

Through Mr.Aslam Kumar, Adv.

versus

BAR COUNCIL OF INDIA AND ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5314/2018 & C.M. Nos.20622-23/2018, 21224/2018

ABHISHEK TRIKHA ..... Petitioner

Through Mr.Krishna Kumar with Ms.Sunita Arora, Adv.

versus

BAR COUNCIL OF INDIA AND ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5315/2018 & C.M. Nos.20624-25/2018

ABHISHEK DEVGAN AND ORS. ..... Petitioners

Through Mr.Mehmood Pracha with Mr.Tarun Narang, Advs.

versus

UNIVERSITY OF DELHI AND ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5406/2018 & C.M. No.20967/2018

MS. MRIDUL RANA ..... Petitioner

Through Mr.Aslam Kumar, Adv.

versus

BAR COUNCIL OF INDIA AND ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5407/2018 & C.M. Nos.20969-20970/2018

MS. NIKITA JAISWAL ..... Petitioner

Through Mr.Aslam Kumar, Adv.

versus

BAR COUNCIL OF INDIA AND ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU. Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5409/2018 & C.M. Nos.20973-74/2018

POOJA YADAV ..... Petitioner

Through Mr.Kirti Uppal with Mr.Ashish Virmani with Mr.Himanshu Dhuper, Advs.

versus

UNIVERSITY OF DELHI & ORS ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU. Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5422/2018 & C.M. No.21007/2018

ROBIN KUMAR ..... Petitioner

Through Mr.Vikrant A.Maheshwari, Adv.

versus

UNIVERSITY OF DELHI AND ANR. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.

\+ W.P.(C) 5467/2018 & C.M. Nos.21229-230/2018

SHRI SYED ADAM ALI ..... Petitioner

Through Mr.Aslam Kumar, Adv.

versus

BAR COUNCIL OF INDIA AND ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5496/2018 & C.M. Nos.21426-21427/2018

RAGHAV MATTA ..... Petitioner

Through Mr.Kirti Uppal, Sr. Adv. with Mr.Rishi Manchanda, Mr.Arun Kumar, Adv. with Ms.Divya Singh, Advs.

versus

BAR COUNCIL OF INDIA & ORS ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh, Adv for BCI.

\+ W.P.(C) No.5497/2018 & C.M. Nos21429-430/2018

SHRI M. POUDIUWIBOU ..... Petitioner

Through: Mr.Aslam Kumar, Adv.

versus

BAR COUNCIL OF INDIA & ORS. ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI.

\+ W.P.(C) 5628/2018 & C.M.No.21951/2018

DISHANT SEHRAWAT ..... Petitioner

Through Mr.Sanjiv Dagar with Mr.Amit Kumar, Advs.

versus

UNION OF INDIA & ANR. ..... Respondent

Through Mr.Brajesh Kumar, Adv for R-1.
Mr.Mohinder JS. Rupal with Mr.Prang Newmai and Ms.Slomita Rai, Advs for R-2.

\+ W.P.(C) 5759/2018

CHETAN KAUSHIK ..... Petitioner

Through Ms.Saahila Lamba, Adv.

versus

UNIVERSITY OF DELHI & ORS ..... Respondent

Through Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI

\+ W.P.(C) 5426/2018 & C.M. Nos.21038-39/2018

DIBUNG WELNGAM & ANR ..... Petitioners

Through Mr.Aslam Kumar, Adv.

versus

BAR COUNCIL OF INDIA & ANR ..... Respondents

Through: Mr.Mohinder J.S. Rupal, Adv. with Mr.Prang Newmai, Adv. & Ms.Slomita Rai, Adv. for DU.
Mr.Preet Pal Singh with Ms.Priyam Mehta, Advs for BCI

**CORAM:**
**HON'BLE MS. JUSTICE REKHA PALLI**

**REKHA PALLI, J**

**JUDGMENT**

1. The present batch of writ petitions raise common issues with similar prayers and are, therefore, being decided vide this common judgment. However, for the sake of convenience, only the facts of *WP(C) No. 5062/2018* are being referred to hereinbelow.

2. The Petitioner, a sixth-semester student of the three-year LL.B. course of Faculty of Law, University of Delhi, has preferred the present petition under Article 226 of the Constitution of India *inter alia* seeking quashing of the Faculty of Law's notification dated 07.05.2018, whereby he has been detained from appearing in his end-semester examinations for the semester conducted from 10.01.2018 to 03.05.2018 (hereinafter referred to as the "Concerned Semester") on the ground of shortage of attendance.

3. The facts as emerge from the record that are necessary for deciding the present petition are that the Petitioner took admission in the LL.B. course of Faculty of Law, University of Delhi in June 2015 for the academic session 2015-2018. After completing his 5$^{th}$ semester (penultimate semester), the Petitioner entered into the 6$^{th}$ semester (final semester) of his course, classes for which semester commenced on 10.01.2018 and concluded on 03.05.2018.

4. It transpires that after the conclusion of the academic semester on 03.05.2018, the Faculty of Law on 07.05.2018 released the first list of students, including the Petitioner, who were being detained from giving

their end-semester examinations for the Concerned Semester due to the alleged shortage in their attendance. It is the Petitioner's case that, during the course of the Concerned Semester, not only were a much fewer number of classes scheduled vis-a-vis the minimum requirement prescribed under the Bar Council of India Rules, but even all the scheduled classes were not held since a number of working days in February and March 2018 were lost on account of prolonged strikes that were called by the Delhi University Teachers Association (hereinafter referred to as "DUTA"), as also certain on-campus events organized by the college administration itself. It is the Petitioner's further case that, while these non-working days have been included in the total number of working days for the Concerned Semester, he has been wrongfully marked absent for the same. Thus, it is the Petitioner's contention that he is a regular student and the alleged shortfall in his attendance is only due to the illegal and arbitrary manner in which the college authorities have recorded his attendance for the Concerned Semester.

5. However, despite making several representations to the affect that his attendance has been calculated incorrectly as mentioned above, the Petitioner continued to remain detained from giving his end-semester examinations. It is in these circumstances that the Petitioner has approached this Court by filing the present petition.

6. When the matter was listed before this Court on 10.05.2018, this Court had, while issuing notice in the petition, by way of an interim arrangement permitted the Petitioner to appear in the end-semester

examinations for the Concerned Semester, which were to commence on 11.05.2018. However, it was made clear that the same was subject to the final outcome of the present petition. Pursuant to this Court's order dated 10.05.2018, the Faculty of Law has preferred a counter-affidavit as also a sur-rejoinder, whereas the Bar Council of India has preferred to address arguments only on the basis of pleadings already on record.

7. Having set out the facts hereinabove, I may now refer to the rival contentions of the learned counsels for the parties. Mr. Prashanto Sen, learned Senior Counsel, by placing reliance on Rule 10 of the Rules of Legal Education, Bar Council of India Rules (hereinafter referred to as the "BCI Rules"), contends that the Faculty of Law is under a statutory obligation to conduct a minimum of 450 hours of class over a period of 15 weeks in a semester of a regular unitary LL.B course. Out of these 450 hours of class, he submits, it is mandatory that at least 360 hours are dedicated solely to in-class lectures, whereas the remaining 110 hours must be dedicated to tutorials, moot court room exercises, seminars etc. By relying on the Faculty of Law's specific averment in its sur-rejoinder, he contends that it is the Faculty of Law's own admitted case that it has conducted only 230 class hours of class during the course of the Concerned Semester, as a consequence of which it is not only in violation of the BCI Rules, but has in effect also deprived its students of an adequate opportunity to meet the requisite attendance criteria to take their end-semester examinations. In these circumstances, he contends, the

Faculty of Law's detention of its students on the ground of shortage of attendance is unfair and completely illegal.

8. Taking Mr. Sen's aforementioned plea further, Mr. Mehmood Pracha, learned counsel for the petitioners in the connected writ petition, contends that the Faculty of Law had in no way informed its students in advance that it would, contrary to the mandate of the BCI Rules, only be conducting about 230 hours of class during the Concerned Semester. Had the students been informed of the same in advance, he submits, they would have accordingly planned their leaves, medical or otherwise, to avoid a situation such as the present case where they are falling short of the mandatory attendance criteria prescribed under Rule 12 of the BCI Rules. Thus, Mr. Pracha's contention is that the Faculty of Law cannot detain its students from giving their end-semester examinations for the Concerned Semester, since the students had no prior information regarding the Faculty of Law's intended non-compliance with the BCI Rules and, therefore, had no way of ensuring that they met the requisite attendance criteria by planning their leaves of absence in accordance with a determinate academic schedule.

9. Mr. Prashanto Sen further submits that the manner in which the Faculty of Law has calculated its students' attendance for the Concerned Semester is in itself unfair and wholly arbitrary. He contends that during the course of the Concerned Semester, there were at least 16 non-working days on which no classes were held by the Faculty of Law. Out of these 16 non-working days, he submits, 13 non-working days were on account

of a strike called by DUTA, pursuant whereto a number of faculty members in the Faculty of Law had outrightly refused to conduct classes and/or take attendance for the same. The other 3 non-working days, Mr. Sen submits, were on account of some programmes/events that had been organized by the Faculty of Law itself. He contends that, as a result of these 16 non-working days, the students have missed a further 80 hours of class, which have been wrongfully included by the Faculty of Law in the 230 hours of class it claims to have conducted during the Concerned Semester. He further contends that, while the aforementioned 80 hours of class have been included in the total number of classes considered for calculating the students' attendance, the students have been wrongfully marked absent for the same. His contention thus is that the Faculty of Law should have given the benefit of these 80 hours of class to its students, i.e., it should have marked them as present for the same, since it is not a case where the students had actually missed lectures that were conducted by the college but one in which the lectures considered towards calculating the final attendance of the students had not been delivered in the first place.

10. Mr. Kirti Uppal, learned Senior Counsel appearing for the petitioners in some connected writ petitions, apart from reiterating Mr. Sen's submissions hereinabove, draws my attention to certain video clippings that were allegedly obtained from the official website of DUTA, in support of his contention that there were in fact strikes called by DUTA during the months of February and March 2018, which strikes

he submits witnessed the participation of many faculty members of the Faculty of Law. It may be noted that these video clippings are essentially televised news clippings of one Ms. Kiran Bala and one Mr. Gautam Kanth, both of whom are now admittedly former faculty members of the Faculty of Law, voicing their solidarity with DUTA's causes and their ardent participation in the strikes called by it. Mr. Uppal submits that both Ms. Kiran Bala and Mr. Gautam Kanth were faculty members of the Faculty of Law at the time they made the press statements captured in the aforementioned video/news clippings and, therefore, the said clippings are reliable evidence of the fact that many faculty members of the Faculty of Law had participated in the strikes called by DUTA.

11. Mr. Uppal further contends that the Faculty of Law, having flouted the BCI Rules itself, cannot insist on their observance by its students. By placing reliance on the decision of the Supreme Court in ***State of Maharashtra v. Jagannath Achyut Karandikar [1989 Supp (1) SCC 393]***, he contends that Rule 12 of the BCI Rules, on the basis of which the Petitioners have been detained from giving their end-semester examinations for failing to meet the prescribed mandatory attendance criteria, must be enforced and read along with the other provisions of the BCI Rules that prescribe the minimum number of class hours required to be conducted by a recognized law college to maintain the prescribed mandatory standards of legal education. His contention thus is that the Faculty of Law can resort to Rule 12 of the BCI Rules and detain its students from giving their end-semester examinations in accordance

therewith, if and only if it has complied with the said Rules itself and has held the minimum number of class hours prescribed thereunder.

12. Mr. Uppal further submits that the Faculty of Law, being affiliated to the University of Delhi, was under a legal obligation to take biometric attendance to ensure the punctuality of its faculty members. These biometric attendance records, he submits, ought to be available with the Faculty of Law and are the best evidence to throw light on the present controversy pertaining to the ambiguity surrounding the number of non-working days during the course of the Concerned Semester. However, he contends, these biometric attendance records have not been produced before this Court by the Faculty of Law for reasons best known to its internal administrative authorities, and in these circumstances an adverse inference may be drawn against the Faculty of Law. He relies on a decision of the Supreme Court in the case of ***Tomaso Bruno and Anr. v. State of Uttar Pradesh [(2015) 7 SCC 178]***, in support of his contention that, as per Section 114 of the Indian Evidence Act, 1872, if a party who possesses the best evidence which will throw light on the issue in controversy withholds such evidence, then the Court may draw an adverse inference against him/her, notwithstanding the fact that onus of proving the concerned fact does not lie on him/her.

13. Ms. Eshna Kumar, learned counsel for the petitioners in *WP(C) No. 5123/2018*, apart from adopting the submissions of Mr. Sen and Mr. Uppal, submits that the Faculty of Law has an internal four-member committee specially appointed to look into the attendance-related

grievances of the students (hereinafter referred to as "Attendance Committee"). However, she contends, while the list of detained students was first put up by the Faculty of Law on its notice board on 07.05.2018, the students' attendance charts for the month of April were only published thereon a day later, i.e. on 08.05.2018. As a consequence of this, she submits, the Faculty of Law has rendered the internal remedy of approaching the Attendance Committee completely nugatory, since the students had no opportunity to even avail of the said remedy by putting their grievances before the said Committee prior to being detained on the ground of shortage of attendance.

14. Ms. Kumar further submits that the aforementioned detention list dated 07.05.2018 was revised two times, pursuant whereto two revised lists of detainees were put up on the Faculty of Law's notice board on 09.05.2018 and 10.05.2018 respectively. These revised lists, she points out, merely physically strike off the names of some students, whose representations pursuant to the publication of the detention lists were considered and found to be satisfactory as per the administrative authorities of the Faculty of Law. Ms. Kumar submits that there is no transparency regarding the modalities through which these student representations were made and considered, thereby revealing the arbitrariness of the process by which the students' attendance related grievances and consequent representations were considered by the administrative authorities of the Faculty of Law.

15. Taking Ms. Kumar's aforementioned plea further, Mr. Ashish Virmani, learned counsel, by placing reliance on the specific case of one Ms. Akshita Tyagi submits that any student who was able to show even the most remote involvement in an extra-curricular activity, was granted attendance for classes allegedly missed on account of "participating" in the said activity. He submits that the manner in which attendance was granted for such "participation" in extra-curricular activities without due application of mind, reveals the arbitrariness of the entire process through which attendance related grievances for the Concerned Semester were addressed by the Faculty of Law.

16. On the other hand, Mr. J.S. Mohinder Rupal, learned counsel for the Faculty of Law, while vehemently opposing the petition, at the outset contends that the Faculty of Law is in compliance with Clause 18 of Schedule III of the BCI Rules, which clause according to him is the provision prescribing the minimum number of class hours to be conducted during a semester of a regular LL.B. course. He contends that as per Clause 18 of Schedule III, the Faculty of Law is under a statutory obligation to conduct only 375 hours of class over the course of a 15-week long semester, out of which only 300 hours are to be dedicated to in-class lectures. He contends that, in compliance with the said provision, the Faculty of Law had conducted 16 weeks of classes during the Concerned Semester. In these 16 weeks, he contends, there were only 96 days on which classes could have been conducted regularly. However, he submits, on account of gazetted holidays, restricted holidays, a mid-

semester break, preventive holidays before festivals, and other permissible leave taken by the faculty members, there were approximately 230 hours of in-class lectures conducted during the Concerned Semester. He contends that, in addition to the aforementioned in-class lectures, about 51 hours of activities and 30 hours of tutorials were conducted, which have in fact not been included in the total number of classes for calculating the students' individual attendance. Therefore, he submits, even though a total of 311 hours of classes/tutorials were held by the Faculty of Law during the Concerned Semester, the Petitioners' attendance has been calculated only with reference to the total number of lecture classes actually held. His contention thus is that, as far as the requirement of holding the mandatory number of class hours is concerned, it was not at all incumbent upon the Faculty of Law to comply with Rule 10 but only with Rule 18, the requirements of which the Faculty of Law has fulfilled with the necessary adjustments on account of the abovementioned non-working days.

17. Mr. Rupal further contends that Mr. Sen's submission, that there were at least 13 non-working days during the months of February and March 2018 due to a strike called by DUTA, is completely fallacious. In this regard, he draws my attention to the fact that the strikes called by DUTA in the months of February and March 2018, were in protest of the alleged non-transparency in the permanent faculty appointments made by the University of Delhi, as a result of which appointments many ad hoc teachers who had served as faculty members for several years had not

been regularized. He submits that the Faculty of Law had made all its permanent appointments before 31.01.2018, whereafter all the permanent appointees had joined the Faculty of Law on 01.02.2018 itself. Therefore, he submits, there was no cause or reason for such permanently appointed faculty members to go on strike in solidarity with the cause of DUTA, which at the time was only espousing the cause of many ad hoc teachers who had not been regularized by the Faculty of Law and the University of Delhi. As regards the plea that many previously appointed ad hoc teachers from the Faculty of Law had gone on strike, he submits that since all of them ceased to be faculty members of the Faculty of Law from 01.02.2018 itself, they were not assigned to conduct any classes in the institute and, therefore, there was no question of any classes having been missed on account of their going on strike.

18. In response to the video/news clippings produced before this Court by Mr. Uppal, Mr. Rupal contends that the said clippings are completely unreliable, since they are vague and do not indicate either when the concerned press statements were made by Ms. Kiran Bala and Mr. Gautam Kanth, or which of the many strikes that have been called by DUTA over the years they pertain to. Even otherwise, he contends, both Ms. Kiran Bala and Mr. Gautam Kanth were ad hoc professors who ceased to be existing faculty members of the Faculty of Law on 01.02.2018 itself. Therefore, for the reasons already mentioned above, he contends that their participation in any strike called by DUTA did not affect the schedule of classes conducted in the Faculty of Law. Thus, Mr.

Rupal's contention is that there is nothing on record to show that any person, who was an existing faculty member of the Faculty of Law on the dates on which the aforementioned strikes had been held by DUTA, had participated in the said strikes.

19. Taking his aforementioned pleas further, Mr. Rupal submits that the Faculty of Law, having conducted the prescribed mandatory number of class hours, was justified in detaining the Petitioners in the present batch of writ petitions from giving their end-semester examinations for the Concerned Semester, since they did not fulfill the mandatory attendance criteria prescribed under Rule 12 of the BCI Rules. He submits that as per Rule 12, it was mandatory for the Petitioners to attend at least 70% of the classes held in a subject to be eligible to appear in the end-semester examination for the concerned subject. He further submits that none of the petitioners fulfilled even the alternative condition permitting any student with less than 70% attendance in a subject to appear in its end-semester examination, if such student has attended at least 65% of the classes held in the said subject in addition to attending at least 70% of the classes held in all other subjects taken together for the semester in issue. By placing reliance on the following decisions of this Court, he contends that the attendance requirement prescribed under Rule 12 must be strictly adhered to and cannot be relaxed in any way whatsoever:-

a. ***S.N. Singh v. Union of India and Ors. [2003 (69) DRJ 502 (DB)]***;

b. ***Kiran Kumari and Ors. v. Delhi University and Ors. [WP(C) No. 9143/2007]***;

c. ***Komal Jain v. University of Delhi and Ors. [WP(C) No. 8534/2008]***;

d. ***University of Delhi and Anr. v. Vandana Kandari and Anr. [176 (2011) DLT 784 (DB)]***;

e. ***Sukriti Upadhyay v. University of Delhi [2010 VIII AD (Delhi) 385]***;

f. ***Sahil Singh Ravish v. University of Delhi and Ors. [LPA 788/2017]***; and

g. ***Gagandeep Kaur v. Govt. of NCT of Delhi and Ors. [WP(C) No. 2790/2010]***.

20. Mr. Rupal further submits that the Faculty of Law has, as far as possible within the prescribed limits of the BCI Rules, been lenient in dealing with its students' attendance related grievances. To emphasize the Faculty of Law's alleged leniency, he submits that each student of the Faculty of Law was given 32 hours of grace attendance on account of teachers being engaged in attending or organizing certain activities. While admitting that the initial detention list dated 07.05.2018 was revised at least two times, he contends that even though the attendance charts for April were put up on the notice board on 08.05.2018 after the first detention list was published thereon, the administrative authorities had for the benefit of its students considered all the representations made sympathetically, and had granted attendance to students for class hours

missed on account of their involvement in extra-curricular activities. Therefore, he submits, contrary to what Ms. Kumar has contended the students had an adequate opportunity to make representations regarding their attendance related grievances and have the issue of their detention reassessed fairly. He further submits that, merely because some students could not adequately show that they had missed classes on account of their involvement in some extra-curricular activities, the Faculty of Law's aforementioned leniency in dealing with attendance related grievances does not lend itself to the conclusion that the Faculty of Law's attendance records are unreliable or that there was any arbitrariness in the manner in which the students' attendance was recorded. By placing reliance on various student representations made subsequent to the publication of the detention lists, Mr. Rupal submits that none of the Petitioners had, prior to the filing of the present petitions, ever agitated the issue of the Faculty of Law's non-compliance with the BCI Rules and had instead raised many fallacious grounds, medical and otherwise, to invoke the sympathies of the administrative authorities for granting them attendance for classes missed. Thus, Mr. Rupal's contention is that none of the grounds raised in the present petition were ever raised before the Faculty of Law's administrative authorities, and the Petitioners have invoked the writ jurisdiction of this Court raising completely new grounds only as an afterthought.

21. Mr. Rupal finally submits that Mr. Uppal's contention, that the Faculty of Law is in possession of the biometric attendance records of its

faculty members and is deliberately concealing the same, is wholly misconceived. By placing reliance on a circular dated 08.12.2009 issued by the Faculty of Law, he contends that the institute has been taking biometric attendance only for its non-teaching staff, which it continues to do till date. He submits that no such system has ever been enforced for the attendance of the teaching staff and, therefore, the Faculty of Law not being in possession of their biometric attendance records, is neither concealing nor withholding such records from this Court.

22. Since the Bar Council of India has not filed a reply in any of the present batch of writ petitions, when the petitions came up for final hearing, this Court had pointedly asked Mr. Preet Pal Singh, learned counsel for the Bar Council of India, to address the Court on the ambiguity regarding which of the BCI Rules would be applicable in calculating the minimum number of class hours to be held by a recognized centre of legal education during a semester of a regular unitary LL.B. course. Pursuant to this Court's pointed query, Mr. Singh on instructions submits that Rule 10, Rule 12 and Clause 18 of Schedule III of the BCI Rules are all equally mandatory in nature, and all recognized centres of legal education must strictly comply with the same. He submits that, as per Rule 10, a recognized centre of legal education must conduct at least 450 hours of class over a period of 15 weeks during a semester of a regular unitary LL.B. course. Out of these 450 hours of class, he submits, 360 hours are to be dedicated to in-class lectures, whereas 90 hours are to be dedicated to tutorials, moot court room

exercises, seminars etc. Furthermore, he contends, a combined reading of Rule 2(xxiii) and Rule 10 requires that there be a minimum of 90 working days of at least 5 hours of class per day in a semester of a regular unitary LL.B. course. While taking no stand qua the eventualities in case a recognized centre of legal education does not hold the prescribed mandatory minimum number of class hours by the time a semester has concluded, Mr. Singh submits that the mandate of the BCI Rules is unequivocal and there can be no relaxations with regard to the mandatory minimum attendance criteria prescribed under Rule 12.

23. Having heard the learned counsels for the parties at great length, I find that the following issues arise for my consideration in the present batch of writ petitions:

I. As per the Rules of Legal Education of the Bar Council of India Rules, what are the minimum number of class hours required to be held by a centre of legal education during a semester of a regular unitary LL.B. course?

II. In the facts of the present case, did the Faculty of Law hold the requisite number of class hours prescribed under the Rules of Legal Education of the Bar Council of India Rules?

III. Can the Faculty of Law resort to Rule 12 of the Rules of Legal Education of the Bar Council of India Rules and detain its students studying in the LL.B. course on the ground of shortage of attendance, if it has itself not held the

mandatory number of class hours prescribed under the said Rules?

24. Before dealing with the rival contentions of the parties, it may be appropriate to refer to the relevant provisions of the Rules of Legal Education of the Bar Council of India Rules, which read as under:-

> *"**2. <u>Definitions</u>. –***
> *(xxiii) "Regular Course of Study" means and includes a course which runs for at least five hours a day continuously with an additional half an hour recess every day and running not less than thirty hours of working schedule per week.*
>
> ***10. <u>Semester system</u>. -***
> *The course leading to either degree in law, unitary or on integrated double degree, shall be conducted in semester system in not less than 15 weeks for unitary degree course or not less than 18 weeks in double degree integrated course with not less than 30 class-hours per week including tutorials, moot room exercise and seminars provided there shall be at least 24 lecture hours per week.*
> *Provided further that in case of specialized and/or honours law courses there shall be not less than 36 class-hours per week including seminar, moot court and tutorial classes and 30 minimum lecture hours per week.*
>
> *Provided further that Universities are free to adopt trimester system with appropriate division of courses per trimester with each of the trimester not less than 12 weeks.*
>
> ***12. <u>End Semester Test</u>***
>
> *No student of any of the degree program shall be allowed to take the end semester test in a subject if the student*

*concerned has not attended minimum of 70% of the classes held in the subject concerned as also the moot court room exercises, tutorials and practical training conducted in the subject taken together.*

*Provided that if a student for any exceptional reasons fail to attend 70% of the classes held in any subject, the Dean of the University or the Principal of the Centre of Legal Education , as the case may be, may allow the student to take the test if the student concerned attended at least 65% of the classes held in the subject concerned and attended 70% of classes in all the subjects taken together. The similar power shall rest with the Vice Chancellor or Director of a National Law University, or his authorized representative in the absence of the Dean of Law*

*Provided further that a list of such students allowed to take the test with reasons recorded be forwarded to the Bar Council of India.*

***Schedule III***

***18. Minimum weekly class program per subject (paper):*** *There shall be for each paper (with 4 credit) Four class-hours for one hour duration each and one hour of tutorial/moot court/project work per week."*

25. As regards the first issue, a bare perusal of Rule 10 of the BCI Rules reveals that a semester of a regular unitary LL.B. course must have a total duration of at least 15 weeks. It further stipulates that each such week of a semester must consist of a minimum of 30 hours of class, out of which at least 24 hours are to be dedicated to delivering in-class lectures, whereas the remaining hours of class are to be dedicated to

tutorials, moot room exercises, seminars etc. Therefore, as per Rule 10, over a period of at least 15 weeks a total of 450 hours {(15 weeks) x (30 hours of class per week)} of class must be conducted by a recognized centre of legal education during a semester of a regular unitary LL.B. course. Out of these 450 hours of class, at least 360 hours {(15 weeks) x (24 lecture hours per week)} are to be allotted to delivering in-class lectures, and the remaining 90 hours or less must be utilized for tutorials, moot room exercises, seminars etc. Furthermore, as per Rule 2(xxiii), a regular course of study must run for at least 5 hours a day and at least 30 hours a week. Therefore, on a combined reading of Rule 10 and Rule 2(xxiii), a regular unitary LL.B. course must consist of at least 450 hours of class conducted over a total of at least 90 working days {450 hours divided by 5 hours of class per day} during a 15-week long semester.

26. Mr. Rupal has strenuously contended that Rule 10 of the BCI Rules only stipulates that 450 hours of class must be conducted for the LL.B. course as a whole and the said Rule does not indicate how many classes are to be organized for an individual subject taught as a part of the LL.B. course and, therefore, one must resort to Clause 18 of Schedule III of the BCI Rules to calculate the total number of lectures to be held cumulatively for all the subjects taught during a semester of the said course. He has further contended that Rule 10 read with Clause 18 of Schedule III stipulates that there must be four hours of in-class lectures and one hour of tutorial/moot court/project work per week for one 4-credit subject paper. On this basis it has been contended that for each

student who studies five courses of 4 credits each in a 15-week long semester of a regular unitary LL.B. course, the requirement as emerges from Clause 18 of Schedule III is that a total of 300 hours of in-class lectures and 75 hours of tutorials/moot courts/project work should be held during a semester of the said Course, and not 450 hours of class as prescribed in Rule 10 of the BCI Rules. However, in my considered opinion, such an interpretation of the BCI Rules is wholly untenable, since it renders Rule 10 partially nugatory. In interpreting Rule 10 and Clause 18 of Schedule III of the BCI Rules, I cannot lose sight of the most cardinal rule of statutory interpretation that the statute must be construed as a whole and the construction given to it must be such that the various provisions of the statute, as far as possible, are harmoniously read in relation to each other.

27. Thus, while interpreting the various applicable provisions of the BCI Rules in light of the stand taken by the Bar Council of India, I find that with respect to the organization of a regular LL.B. course, it is Rule 10 which prescribes the minimum number of classes required to be held by a recognized centre of legal education. On the other hand, Clause 18 of Schedule III is relevant in a completely different context than Rule 10. I am of the considered view that Clause 18 of Schedule III only stipulates the minimum number of class hours to be conducted for a 4-credit subject paper, thereby mandating a certain minimum credit value to class hour ratio for each of the various courses/subjects offered by a recognized centre of legal education. A student of a regular LL.B. course studies a

number of subjects offered by its law college, each of which subjects has a certain credit value, which in turn is awarded to the student on the successful completion of the concerned course/subject. It is the manner in which a particular subject must be organized that is governed by Clause 18 of Schedule III, which only lays down that a 4-credit subject paper offered by a recognized centre of legal education must be conducted for a minimum of 5 hours a week, including one hour of tutorial, moot court, project work etc. In deciding whether a particular subject paper legitimately has a credit value of 4, one must determine whether its course structure adheres to Clause 18 of Schedule III. Therefore, in assigning credit values to the subjects offered by it, a recognized centre of legal education must ensure that it is in accordance with the standards prescribed under Clause 18 of Schedule III. This, however, does not mean that subjects of a higher or lower credit value cannot be offered by a centre of legal education. It merely means that such subjects of higher or lower credit value must have the minimum credit value to class hour ratio prescribed under Clause 18 of Schedule III for 4-credit subject papers. It is in this context that Clause 18 of Schedule III is of importance in the organization of a LL.B. course.

28. The provisions of Clause 18 of Schedule III, only govern the organization of a subject-paper offered as a part of the LL.B. course and not the said course as a whole. It does not in any way prescribe the minimum number of class hours that must be conducted each week during a semester of a regular unitary or double-degree integrated LL.B.

course and, therefore, cannot be resorted to for calculating the total number of class hours that must be conducted in an entire semester of a regular LL.B. course, for which purpose one must turn only to Rule 10.

29. Having come to the conclusion that it is only Rule 10 and not Clause 18 of Schedule III that prescribes the mandatory number of classes that must be held by a recognized centre of legal education during a semester of a regular LL.B. course, which as noted hereinabove is also the stand of the Bar Council of India, I may now analyze whether the Faculty of Law has in the facts of the present case, complied with the BCI Rules and conducted the prescribed mandatory number of class hours during the Concerned Semester. On a bare perusal of the Faculty of Law's pleadings as also Mr. Rupal's categorical statement before this Court, it is apparent that it is the Faculty of Law's own admitted case that it has conducted only about 311 hours of class (including 230 hours of in-class lectures, 51 hours of activities and 30 hours of tutorials) during the Concerned Semester. However, with regard to the 51 hours of activities that were allegedly conducted by the Faculty of Law, this Court had asked Mr. Rupal to produce a list of all such activities for which attendance was granted to the students, in case they participated in or volunteered to organize the same. However, except a rough scribbled note, no such list of events was produced before this Court. Moreover, there is nothing on record to show that these events were either compulsory or that the students were even aware of the fact that they would be granted attendance in case of their participation/involvement

with such activities, which included some "class parties". Similarly, there is nothing on record to show when the alleged 30 hours of tutorials were conducted by the Faculty of Law. Therefore, in my considered opinion, the Faculty of Law's averment that it had in fact conducted 311 hours of class during the Concerned Semester remains completely unsubstantiated and cannot be relied upon. It is for this reason that in determining whether the Faculty of Law has complied with the BCI Rules, this Court is constrained to consider only the 230 hours of in-class lectures conducted by it, which admittedly were the only classes considered by the Faculty of Law for calculating the students' individual attendance.

30. At this stage, it is also pertinent to mention that this Court had asked Mr. Rupal to produce the original attendance records of the Faculty of Law for the Concerned Semester. Having perused the original attendance records, I find that there are glaring discrepancies in the same. Firstly, it may be noted that the Faculty of Law as on date continues to mark attendance in the most archaic fashion on loose attendance sheets that are maintained in a most disorganized manner. Secondly, the attendance records of any given day reveal that the attendance of the students has not been marked properly. Not only is the students' attendance of any given day marked by multiple different pens (sometimes of various different colours), but there is also manifest over-writing in a vast majority of the records produced before this Court. It is apparent that the students' attendance has not been reliably marked by the concerned faculty members or even by the same person, and the

attendance records are frequently edited ex-post facto. Furthermore, while Mr. Rupal has contended that the Faculty of Law has in compliance with Clause 18 of Schedule III conducted 311 hours of class during the Concerned Semester, he has in the same breath paradoxically contended that each student was granted 32 hours of grace attendance on account of classes not conducted by teachers due to their prior engagement in organizing and attending activities of their own. Evidently, the two contentions are mutually exclusive, since the very concept of grace attendance in the present case is premised on the fact that faculty members were unable to take classes on account of their own professional commitments. Thus, it emerges that the students of Faculty of Law were granted attendance for 32 hours of classes that never took place to begin with. Therefore, I find merit in the Petitioners' contention that even the attendance records as maintained by the Faculty of Law are manifestly arbitrary and utterly unreliable.

31. From the aforesaid conclusions, it becomes apparent that the Faculty of Law has during the Concerned Semester, reliably conducted only 230 hours of class, which is approximately only 50% of the mandatory requirement under Rule 10 of the BCI Rules of conducting at least 450 hours of class during a semester of the regular unitary LL.B. course. Needless to say, this is certainly a most regrettable state of affairs, especially for a leading centre of legal education in the capital of the country such as the Faculty of Law. There is no gainsaying that legal advocacy in India has acquired the status of a regulated profession due its

direct nexus with general public interest. In democratic societies such as ours, where legal conflicts arising out of the exercise of competing legal rights are inevitable, it is imperative that lawyers have the requisite competence to ensure the skilled resolution of such conflicts before various judicial, legislative and executive forums. Access to an in-depth and multi-faceted legal education is perhaps, the most important measure for ensuring that young students acquire the skills necessary for any practicing advocate worth his/her salt. It is for this reason that the Bar Council of India has in Part IV of the Bar Council of India Rules, prescribed the mandatory standards of legal education that must be maintained by all recognized centres of legal education.

32. It cannot be emphasized enough that recognized centres of legal education must meticulously ensure that they are in compliance with the mandatory standards of legal education prescribed by the Bar Council of India, which includes holding the minimum number of class hours prescribed under Rule 10 of the BCI Rules. In this context, it may be appropriate to refer to the observations of the Kerala High Court in paragraph 16 of its decision in ***Satheesh Kumar N. v. Mahatma Gandhi University [2015 SCC OnLine Ker 29037]***, which reads as under:-

> *"16. Therefore the prescription of the minimum hours of lecture classes and holding of tutorials, moot court and seminars by the Bar Council of India are to be scrupulously followed by the Universities. The above exercises are essential to chisel out the best in a law student many of whom are destined to become lawyers, judicial officers, parliamentarians etc. The possible lag in the course is not an*

*excuse for the Universities to commit breach of the statutory rules and the classes cannot also be telescoped."*

33. I also deem it appropriate to refer to the decision of the Kerala High Court in the case of ***Mohanan M.E. v. University of Calicut [2016 SCC OnLine Ker 38639]***, on which reliance has been placed by the learned counsel for the Bar Council of India. The relevant paragraph 15 of the decision of the Court in ***Mohanan (supra)*** reads as under:-

*"15. We caution the authorities that if they are blind or they pretend to be purblind to these violations, the courts would be constrained and forced to step in to redress the legitimate issues raised by the student community. We cannot obviously be occluded in our vision when such patent instances of violations are brought to our notice and we caution the Colleges and Universities that if such transgressions are still continuing and placed to our notice, we would be compelled to issue such appropriate orders in future to ensure that our next generation would not suffer on account of the cavalier or lackadaisical attitude adopted by them in such matters of great importance."*

34. Thus, what emerges is that despite the repeated observations of various High Courts, recognized centres of legal education often violate the mandate of the BCI Rules by not holding the prescribed mandatory minimum number of class hours. The rampancy of such transgressions by law colleges is not only attributable to the educational institutes but also to the Bar Council of India, which has inevitably failed to exercise its powers of inspection under the BCI Rules and periodically inspect its recognized centres of legal education, in order to ensure their compliance

with the said Rules. There is no gainsaying that it is incumbent upon the Bar Council of India, which is a statutory body established under the Advocates Act, 1961, to not only promote and lay down the standards of legal education in the country but also to ensure their observance by recognized centres of legal education.

35. In view of my aforesaid conclusion that it is Rule 10 read with Rule 2(xxiii) that prescribes the mandatory minimum number of class hours and working days to be conducted by a recognized centre of legal education, as also my aforementioned finding that the Faculty of Law has reliably conducted only 230 hours of class during the Concerned Semester, it is apparent that the Faculty of Law has not complied with the mandate of the BCI Rules. Mr. Rupal has vehemently contended that it is not Rule 10 but Clause 18 of Schedule III that prescribes the mandatory minimum number of classes that must be conducted by a recognized centre of legal education, and in compliance with the said Clause, the Faculty of Law has conducted the mandatory number of class hours. However, even if this Court were to accept Mr. Rupal's plea that it is Clause 18 of Schedule III which prescribes the mandatory minimum number of class hours to be conducted by a recognized centre of legal education, the Faculty of Law is still deficient in respect of the alleged requirement of the said Clause, since it requires at least 375 hours of class (out of which at least 300 hours are to be utilized for delivering in-class lectures and 75 hours are to be dedicated to tutorials/moot court/project work) to be conducted by the concerned institute, whereas it

is the Faculty of Law's own admitted case that it has at best conducted only 311 hours of class. Thus, looked at from every possible angle, the Faculty of Law is deficient by at least 139 hours in respect of conducting the requisite number of class hours prescribed under the BCI Rules and is, therefore, in clear violation of the said Rules.

36. At this stage, I may also briefly deal with the Petitioners' contentions pertaining to the strikes held by DUTA, on account of which strikes it is alleged that many faculty members of the Faculty of Law cancelled several classes. While I find that there is *prima facie* reason to believe that the said strikes saw the large scale participation of faculty members from the Faculty of Law, due to which students have been unfairly deprived of an opportunity to meet the prescribed attendance criteria, in view of my finding that the Faculty of Law's own pleadings reveal an admitted case of its deficiency in complying with the BCI Rules, I have not deemed it necessary to delve into the issue of how the faculty members' alleged participation in the said strikes has affected the students' attendance for the Concerned Semester.

37. In view of the position that the Faculty of Law is in glaring violation of Rule 10 of the BCI Rules, I may now analyze the third and final issue before this Court, i.e., whether the Faculty of Law can detain its students on the ground of shortage of attendance in accordance with Rule 12 of the BCI Rules, when it has itself not complied with the said Rules and held the mandatory number of class hours prescribed thereunder. In determining this issue, it is important to first understand

the effect of a recognized law college's non-compliance with the BCI Rules on its students' attendance. Given that Rules 10 and 2(xxiii) prescribe a mandatory minimum number of class hours and minimum number of working days to be conducted by any recognized centre of legal education, students have a reasonable expectation that their respective law colleges will comply with the same and hold the prescribed minimum number of class hours and minimum number of working days throughout a semester of their regular LL.B. course. Therefore, students understandably plan their leaves and own academic schedules as per the BCI Rules and their institute's own rules and regulations, if any, pertaining to absence and attendance. An academic curriculum, which includes the schedule of classes, must be determinate and predictable enough to allow students to plan their leaves and organize their respective academic schedules. Furthermore, it may be that due to some unforeseen circumstances such as sickness, family commitments, bereavements etc., even the most regular and dedicated of students may miss classes. Any well-planned academic curriculum must be able to accommodate such legitimate concerns and allow students a reasonable opportunity to make up the shortfall in their attendance caused due to such circumstances. When a recognized law college does not comply with Rule 10, it essentially deprives its students of a reasonable chance to attend the necessary number of classes to meet the mandatory attendance criteria prescribed under Rule 12, since it does not afford the students an adequate opportunity to make up the shortfall in their attendance due to

classes missed on account of valid concerns, or leaves taken under the legitimate expectation of having an adequate opportunity to attend future classes to compensate for their absence.

38. In the facts of present case, for instance, the Faculty of Law has admittedly held only about 230 hours of class during the Concerned Semester. Assuming that it had, in compliance with Rule 2(xxiii), held the mandatory minimum of 5 hours of class a day for its regular unitary LL.B. course, I find that the Faculty of Law had at best conducted only 46 days of class during the Concerned Semester, which is regrettably only 51% of the total requirement of 90 working days as per Rules 10 and 2(xxiii) of the BCI Rules. In order to meet the prescribed mandatory attendance criteria under Rule 12, students would have had to attend approximately 32 days of class, thereby leaving them with a very narrow margin of only 14 days to miss classes for any reason whatsoever. In comparison, if the Faculty of Law would have complied with the provisions of BCI Rules and conducted the requisite minimum of 450 hours of class over a total of at least 90 working days, students would have been able to avail 27 days of leave to meet the prescribed attendance criteria of 70% as per Rule 12. Evidently, students would have had a far more realistic and reasonable opportunity to make up any shortfall in their attendance had the Faculty of Law complied with the BCI Rules and held the prescribed mandatory minimum number of class hours.

39. Mr. Rupal has contended that, even if the Faculty of Law had itself not held the mandatory minimum number of class hours prescribed under

the BCI Rules, attendance necessarily has to be calculated only on the basis of the number of classes actually *held* and, therefore, students were expected to meet the attendance criteria prescribed under Rule 12 as calculated on the basis of the number of classes actually held by the Faculty of Law. However, even if I were to assume that Mr. Rupal's contention is correct, I find that it is only possible for students to plan their leaves and academic schedules when they have prior information about the number of classes that are going to be conducted and their approximate respective durations. In the absence of such information, academic schedules are too indeterminate, as a result of which students are unfairly disadvantaged since they are inevitably unable to avail any leave, for medical reasons or otherwise, without uncertainty or undue anxiety of falling short of the mandatory attendance criteria. Even otherwise, I am of the opinion that, merely because attendance must be calculated on the basis of the number of classes actually held, the Faculty of Law is not exonerated from the legal obligation to comply with the BCI Rules and hold the mandatory minimum number of class hours and working days as prescribed thereunder.

40. Therefore, while there can be no doubt about the fact that the students of a regular LL.B. course must meet the attendance criteria prescribed under Rule 12 of the BCI Rules, the question in this case is whether they can be realistically expected to meet the said attendance criteria in the first place, when the number of classes actually held does not even afford them an adequate opportunity to make up the shortfall in

their attendance due to classes missed on account of valid concerns, or leaves taken under the legitimate expectation of having an adequate opportunity to attend future classes to compensate for their absence? There is always a legitimate expectation with every student to bridge the shortfall in his/her attendance by the time the full term concludes. To render the same impossible or unfairly onerous, by not complying with the BCI Rules and holding the prescribed mandatory number of class hours and working days, definitely mars the students' prospects of achieving the minimum attendance criteria required by the Bar Council of India, especially in circumstances such as the present case where there is a glaring deficiency in the number of classes held by the concerned recognized centre of legal education.

41. However, in light of the aforementioned infractions on part of the Faculty of Law, the question which now arises for consideration concerns the nature of reliefs that may be granted to the petitioners in the present batch of writ petitions. I am of the considered view that, in the facts of the present case, it is not sufficient for this Court to stop at merely declaring that the Faculty of Law has, by failing or neglecting to hold the prescribed mandatory minimum number of class hours, illegally infringed its students' legitimate expectations to have an adequate opportunity to meet the prescribed mandatory attendance criteria. It is a settled legal position that Article 226 of the Constitution of India confers wide powers on this Court to grant such consequential reliefs as may be necessary in the interests of justice to meet the peculiar circumstances of every case. I

am of the view that in the facts of the present case, the failure to exercise this power will inevitably result in the grant of an incomplete relief with no real remedy being awarded to the Petitioners, who have not only been illegally detained from giving their end-semester examinations but have also been deprived of their statutory right to attend a certain minimum number of class hours during the course of the Concerned Semester. At this stage, it may be appropriate to refer to the decision in the case of ***State of Madhya Pradesh v. Bhailal Bhai [(1964) 6 SCR 261]***, wherein the Supreme Court has expounded the legal position concerning the power of this Court to effect the redressal of rights that have been illegally infringed, by granting suitable consequential reliefs. For the sake of ready reference, the relevant paragraph 15 of the decision of the Supreme Court in ***Bhailal Bhai (supra)*** has been reproduced hereinbelow:-

> *"15. We see no reason to think that the High Courts have not got this power. If a right has been infringed — whether a fundamental right or a statutory right — and the aggrieved party comes to the court for enforcement of the right it will not be giving complete relief if the court merely declares the existence of such right or the fact that that existing right has been infringed. Where there has been only a threat to infringe the right, an order commanding the Government or other statutory authority not to take the action contemplated would be sufficient. It has been held by this Court that where there has been a threat only and the right has not been actually infringed an application under Article 226 would lie and the courts would give necessary relief by making an order in the nature of injunction. It will hardly be reasonable to say that while the court will grant relief by such command in the nature of an order, of injunction where*

> *the invasion of a right has been merely threatened the court must still refuse, where the right has been actually invaded, to give the consequential relief and content itself with merely a declaration that the right exists and has been invaded or with merely quashing the illegal order made."*

42. In the present case, this Court must perform the task of balancing the binding mandate of the BCI Rules and the students' legitimate expectations to have a determinate academic schedule and an adequate opportunity to make up the shortfall in their attendance before the conclusion of an academic semester on one hand, against the Faculty of Law's plea that the students ought to have met the prescribed attendance criteria vis-à-vis the lectures actually delivered. I am of the opinion that the only way the aforementioned concerns can be balanced in the facts of present case is by directing the Faculty of Law to conduct as many extra classes as may be necessary for it to meet the mandatory standards prescribed under the BCI Rules. Such a direction will not only be in consonance with the mandate of the Bar Council of India, which the Faculty of Law was bound to comply with as per the stand of Bar Council of India itself, but will also ensure that not only the Petitioners but also other similarly placed students who could not attend classes due to legitimate reasons, including medical concerns, are not held ineligible only because the Faculty of Law did not hold the statutorily prescribed mandatory minimum number of class hours and working days.

43. In fact, I find that a similar direction was also given by the Karnataka High Court, though in slightly different circumstances, in its

decision dated 14.06.2012 in the case of ***Kum. Radhika Garg v. The Director, Pre-University Board (Karnataka) and Anr. [WP(C) No. 5973/2012]***, which case has been relied upon by the Petitioners. In ***Kum. Radhika Garg (supra)***, a Single Judge of the Karnataka High Court, while placing reliance on the decision of the Supreme Court in ***State of Tamil Nadu and Anr. v. S.V. Bratheep (Minor) and Anr. [(2004) 4 SCC 513]***, directed the respondents therein to conduct extra-classes for the petitioner in that case, so as to enable her to make up the deficiency in her attendance. The relevant paragraph 27(a) of the decision dated 14.06.2012 in the case of ***Kum. Radhika Garg (supra)*** reads as under:-

> "*21. To meet the ends of justice, I dispose of this petition with the following order:-*
>
> *a) The second respondent is directed to hold the special classes for the petitioner from morning till evening on all the days including Saturdays, Sundays and public holidays till the date of the commencement of the supplementary examination. In giving this direction, I am fortified by a Division Bench judgment of Madras High Court, as extracted in the Hon'ble Supreme Court's judgment in the case of* ***STATE OF TAMIL NADU AND ANOTHER V. S.V. BRATHEEP (MINOR) AND ANOTHER*** *reported in* ***(2004)4 SCC 513,*** *while examining the issue of eligibility to admission. The relevant portion of the said judgment is extracted hereinbelow:*
>
> > *"3. Since the learned counsel appearing for Anna University pointed out that admissions at this late juncture are likely to affect the University Attendance Regulations, we also direct that the shortage in the attendance of such students shall be compensated by holding special*

> *classes on Saturdays, Sundays and other holidays. Learned counsel appearing on behalf of the engineering institutions have undertaken that teaching staff who are engaged for holding such special classes shall be paid extra and that no amount shall be collected by the institutions from the students."*

44. It is imperative to note that some of the Petitioners in the present batch of writ petitions are students who have not been able to meet the requisite attendance criteria because they were admitted (or rather re-admitted) into the Faculty of Law only in the middle of the Concerned Semester, due to which they were marked absent for all the classes they had missed prior to their joining the college. While the practice of permitting mid-semester admissions is unfathomable, especially when the college authorities are fully aware that the concerned student will not be able to meet the prescribed attendance criteria, it is not for this Court to venture into the wisdom of the said academic policy. However, I am of the considered view that once the Faculty of Law has permitted such mid-semester readmissions, it does so at its own peril. In such cases, the Faculty of Law cannot merely mark the concerned students absent for classes that they could not have attended even if they wanted to, since there were not on the attendance rolls of the college. It is for this reason that I am of the opinion that the Faculty of Law must conduct extra classes/tutorials for even those students who could not abide by the mandatory attendance criteria, due to the fact that their chances of

meeting the same were rendered impossible on account of their mid-semester admissions.

45. For the aforementioned reasons, the impugned detention list dated 07.05.2018 and any other subsequent detention lists issued by the Faculty of Law are quashed insofar as they pertain to the Petitioners and other similarly situated students who could not meet the prescribed attendance criteria due to the Faculty of Law's failure to hold the prescribed mandatory minimum number of class hours during the Concerned Semester. As further consequential relief, this Court also issues the following directions:

i. The Faculty of Law must, within 8 weeks, hold at least 139 hours of extra classes/tutorials for all those students desirous of attending the same and making up the shortfall in their attendance caused only due to the Faculty of Law's failure to hold the mandatory minimum number of class hours in compliance with the BCI Rules. Since some of the Petitioners had been granted, by way of an interim relief, permission to give their end-semester examinations during the pendency of the present writ petitions, their respective results shall be declared provisionally. However, it is made clear that the same would be subject to them attending the requisite number of extra classes to be organized by the Faculty of Law, and subsequently meeting the mandatory attendance criteria prescribed under Rule 12 of the BCI Rules.

ii. The Faculty of Law must allow the students who could not meet the prescribed attendance criteria on account of their mid-semester admissions, to attend the 139 hours of extra classes/tutorials to be conducted pursuant to the aforementioned directions of this Court, and further conduct as many additional extra classes/tutorials in excess of the aforementioned 139 hours, as may be necessary to afford an adequate opportunity to such students to meet the mandatory attendance criteria prescribed under Rule 12 of the BCI Rules.

iii. In the meanwhile, the Faculty of Law must allow those of its students who were detained from giving their end-semester examinations due to shortage of attendance (caused only as a result of the Faculty of Law's aforementioned infractions) and could not be granted any interim relief, to take their supplementary examinations for the Concerned Semester. However, it is made clear that a student's result in respect of the said supplementary examinations shall be declared only if he/she meets the attendance criteria prescribed under the BCI Rules after attending the extra classes/tutorials held by the Faculty of Law pursuant to the directions of this Court hereinabove.

iv. The Bar Council of India is directed to exercise its statutory powers under the Advocates Act, 1961 as also the Bar Council of India Rules, and take immediate steps to ensure the compliance of

*inter alia* the Rules of Legal Education, by all its recognized centres of legal education.

46. The writ petitions alongwith all pending applications are disposed of in the aforesaid terms with no order as to costs.

**REKHA PALLI**
**(JUDGE)**

**JULY 06, 2018**/ss