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

+ W.P.(C) 4848/2020

V GOVINDA RAMANAN

..... Petitioner

Through Mr.Yudhvir Singh Chauhan and
Mr.Vishal Dabas, Advs. with
petitioner-in-person.

versus

CONSORTIUM OF NATIONAL LAW

UNIVERSITIES & ANR.

..... Respondents

Through Mr.Dayan Krishnan, Sr.Adv. with
Mr.Vinayak Mehrotra, Adv. for R-1/
UOI.
Mr.Ajay Diggpaul, CGSC with
Mr.Himanshu Pathak and Mr.Kamal
R.Diggpaul, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **10.09.2020**

This hearing is conducted through video conferencing.

CM.APPL. No.17490(*exemption*)

Allowed subject to all just exceptions.

CM APPL. No.17491/2020

For the reasons stated in the application, the same is allowed.

Court fees be filed within two weeks.

W.P.(C) 4848/2020, CM.APPL Nos.17489 & 19726/2020

1. This writ petition is filed by the petitioner seeking an appropriate direction to quash the CLAT- 2020 examination notification issued by respondent No.1 in so far as it mandates/directs the petitioner to physically go to the examination centre and give the exam.

2. The petitioner is a law graduate [BA. LL.B (Hons.)] who wishes to pursue his LL.M. It is pleaded that the petitioner suffers from asthma and as such falls under the vulnerable category of individuals who are advised by the Government not to go outside in the present time.
3. The application forms were invited by the consortium of NLU's/respondent No.1 to conduct CLAT-2020 for UG and PG Law programs offered by the 22 National Law Universities.
4. It is pleaded that on account of COVID-19 pandemic, the entire educational system in the country has come to a standstill. Schools, Colleges, Universities are completely closed.
5. The CLAT-2020 examination was to be held on 22.08.2020. This date now has been extended to 28.09.2020. The grievance of the petitioner is that it is mandatory for the petitioner to physically go to the testing center and to give the said examination, which is dangerous in the present circumstances. It is pleaded that the Government of India has granted certain concessions on movement. However, movements of the individuals under the risk category, i.e. elderly, children and other individuals who are suffering from ailments continues to be restricted. Hence, the present writ petition.
6. Respondent No.1/the consortium of NLU has filed its counter affidavit. It is stated that respondent No.1 is responsible for conducting the Common Law Admission Test ('CLAT'), which is a common examination for entry to various National Law Universities across the country. Approximately 78,000 candidates are expected to appear in the examination across 203 centers in the country.
7. It is further pleaded that similar petitions have been rejected by the Supreme Court for various other examinations pertaining to professional

degree/courses. Reliance is placed on various decisions to the said effect that have been passed by the Supreme Court.

8. It is also pointed out that respondent No.1's decision to conduct CLAT-2020 at physical test centers was challenged by way of Public Interest Litigation before the Supreme Court of India. The same was dismissed *in limine* by a three Judge Bench of the Supreme Court in the order titled '*Mitul Jain v. Consortium of NLUs & Ors.*' in W.P.(C) 717/2020 dated 29.07.2020.

9. It is further pleaded that the Ministry of Human Resource Development has on 06.07.2020 issued instructions for conducting examinations at physical test centers for final term examinations for Universities, IIT-JEE, NEET, etc. These instructions would also cover the conduct of CLAT-2020 by respondent No.1. It is stated that vide office memorandum dated 06.07.2020, it is specially noted that the MHA has granted an exemption for opening educational institutions for the purpose of holding such examinations/evaluation work. Further in case there are restrictions on movement in certain areas, admit/identity cards issued to the candidates would be treated as a pass for the movement of students. It is stated that the State Governments would issue instructions to all local authorities to issue movement passes to invigilators and all personnel engaged in the conduct of examination. All precautions would be taken i.e. steps would be taken for disinfection of the entire examination center, provision for sanitizer at the entry gate, examination rooms, staff rooms, seating plans to ensure proper social distancing, thermal screening of all concerned individuals at entry gates, etc. would be done. The notification dated 30.06.2020 issued by respondent No.1 detailing the medical

precautions to be undertaken while conducting CLAT-2020 examination has also been annexed with the counter affidavit of the respondent no.1.

10. Regarding the contention of the petitioner that home base online test be conducted, it has been pleaded that home-based online test for around 78,000 students would not be possible. The test would be completely compromised and may even be manipulated by the participants or coaching centers. The several meetings which took place by respondent No.1 whereafter it was concluded that an online test at home with technological measures cannot ensure transparency, fairness and integrity of a high stake examination such as CLAT. Further home- based exams require access to a laptop or desktop computer, internet access and network stability. Respondent No.1 cannot expect all candidates to have access to these resources at home. Further such a course would severely harm those candidates from the backward areas/sections.

11. The petitioner has also filed a rejoinder affidavit. In the course of arguments, he has reiterated that all his contentions have been noted in the rejoinder. The contents of the rejoinder may be looked into.

It has been pleaded that the direction to the petitioner who is an asthmatic to appear physically in the examination center of CLAT-2020 is violative of 'Right to Life' and 'Right to Health' guaranteed under Article 21 of the Constitution of India and hence is liable to be *set aside*.

Further reliance is placed on the notification issued by the Ministry of Home Affairs under the Disaster Management Act, 2005 on 29.07.2020 where certain guidelines and restrictions have been issued. Reliance is placed on one of the guidelines which states that persons above 65 years of age and persons with co-morbidities are advised to stay at home, except for

essential and health purposes. It is pleaded that the act of the respondents tantamounts to violation of the said guidelines. Any such violation invites prosecution in terms of the Disaster Management Act, 2005 and other provisions.

It is further pleaded that because of the present COVID-19 situation, the premiere institution like Indian Institute of Mass Communication has cancelled its entrance examination.

It is stated that mere observations in the order of the Supreme Court does not cause prejudice to the case of the petitioner.

It is further pleaded that the home-based online exam is the safest and the best mode in these trying times and especially in view of the COVID-19 pandemic.

12. I may first have a look at the order of the Supreme Court dated 29.07.2020 passed in W.P.(C) No.717/2020, titled '*Mitul Jain vs. Consortium of NLUs & Ors.*' The said petition was dismissed by the following order:

“

O R D E R

We are not inclined to entertain this petition under Article 32 of the constitution of India.

The writ petition is accordingly dismissed. Pending applications stand disposed of.”

Keeping in view the aforesaid, it is clear that the aforesaid order would remain binding on this court.

13. Even otherwise, it is clear that the plea of respondent No.1 that a home-based exam may not be appropriate for approximately 78,000 candidates who are to take the exam. The possibility of the exams being compromised or manipulated by the participants/coaching centers cannot be

ruled out. That apart, the problem of accessibility for 78,000 candidates to appropriate technology, internet connection, laptop or desktop computer itself would be doubtful. Hence this plea of the petitioner cannot be accepted.

14. Further reliance of the learned counsel for the petitioner on the guidelines of the Ministry of Home Affairs is misplaced. The said guidelines clearly provide that persons with co-morbidities are advised to stay at home. It is at best 'an advisory'.

15. Further as pointed out in counter affidavit by respondent No.1, the Ministry of Human Resources Development has issued instructions for conducting examinations at physical centers for final term examination of Universities, IIT-JEE, NEET, etc. The concerned memorandum notes that MHA has granted exemptions for opening educational institutions for holding such examinations. The office memorandum envisages and permits the conduct of the examinations online/offline mode, subject to adherence to the Standard Operating Procedure, which is sought to be followed by respondent No.1.

16. It is clear that the pleas of the petitioner are misplaced and cannot be a ground for postponing the exams/change of mode to conduct the exam.

17. I may also note that the petitioner has completed his LL.B. in 2016. It is now after a gap of 4 years that he seeks to apply for a Post Graduation in Law. The Petitioner has hence waited for four years to give the exam.

18. There is no merit in the present petition. The same is dismissed.

JAYANT NATH, J.

SEPTEMBER 10, 2020/v