

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 1ST DAY OF JULY 2021 / 10TH ASHADHA, 1943

WP(C) NO. 8706 OF 2021

PETITIONERS:

- 1 JOMOL JOHN,
AGED 23 YEARS, D/O.K.P.JOHN, KAMMAT KARUKAPALLY
HOUSE, SOUTH PARAVOOR P.O., ERNAKULAM-682301.
- 2 ARAVIND BABU,
AGED 23 YEARS, S/O.BABU E.K., KOMAROTH, NO.31,
VADAKKEDATH ROAD, AYYAPPANKAVU EAST, ERNAKULAM
NORTH P.O., ERNAKULAM-682018.
- 3 S.SAJITH SANAL,
AGED 23 YEARS, S/O.SANAL KUMAR.C, KP-10/541,
THOTEKATTU HOUSE, MARKET CHURCH ROAD, PANANGAD
P.O., KOCHI-682506.
- 4 PRASEEDHA PRADEEP,
AGED 23 YEARS, D/O.PRADEEP PANDALA, I1 JEWEL
PEARL VYLOPILLY LANE, AZAD ROAD, KALOOR, KOCHI-
682017.
- 5 MIDHUN THAMBY,
AGED 22 YEARS, S/O.T.J.THAMBY, THOPPIL HOUSE,
MUTTAMBALAM P.O., KOTTAYAM-686004.
- 6 SHILPA G.S.,
AGED 23 YEARS, D/O.SIVADASAN G., CHANDRAVILASOM,
ELAMADU P.O., AMBALAMMUKKU, AYUR, KOLLAM-691533.
- 7 ATHULYA R.KRISHNAN,
AGED 22 YEARS, D/O.RADHAKRISHNA PILLAI,
AKKINATTU VADAKKETHIL, POOZHIKKAD P.O.,
PANDALAM, PATHANAMTHITTA-689515.
- 8 RAHUL PREMAN.K,
AGED 23 YEARS, S/O.K.R.PREMANANDAN, KATTUMPURAM
HOUSE, KUTTUNGAL TEMPLE ROAD, NETTOOR (NORTH)-
682040.

- 9 ABY SAJU,
AGED 23 YEARS, S/O.SAJU JOSEPH, ALOOKARAN HOUSE,
PONOTH ROAD, KALOOR, KOCHI-682017.
BY ADVS.
AMRIN FATHIMA
SMT.STEFIN THOMAS

RESPONDENTS:

- 1 BAR COUNCIL OF INDIA
21, ROUSE AVENUE INSTITUTIONAL AREA, NEAR BAL
BHAWAN, NEW DELHI-110002, REPRESENTED THROUGH
ITS SECRETARY.
- 2 THE MAHATMA GANDHI UNIVERSITY,
PRIYADARSHINI HILLS P.O., KOTTAYAM-676560,
REPRESENTED BY ITS REGISTRAR.
- 3 GOVERNMENT LAW COLLEGE,
OPP.SUBAHS PARK, ERNAKULAM, REPRESENTED BY ITS
PRINCIPAL.
BY ADV SHRI.ASOK M. CHERIAN, SC, M.G. UNIVERSITY
ADV.PRINCY XAVIER GOVERNMENT PLEADER
ADV.RAJIT STANDING COUNSEL
ADV.SURIN GEORGE IYPE STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP
FOR ADMISSION ON 01.07.2021, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

W.P.(C) No.8706 of 2021

Dated this the 1st day of July, 2021.

J U D G M E N T

Petitioners are students undergoing Five Year integrated B.com. LLB (Hons) course in the Government Law College, Ernakulam. They have joined for the course in the academic year 2016-2017 and the course is supposed to be over in the academic year 2020-2021. In terms of Rule 24 of Schedule II to the Rules of Legal Education framed by the Bar Council of India, internship is part of the curriculum of the course. Rule 25 of Schedule III to the Rules of the Legal Education provides that each registered student shall have

completed a minimum of 20 weeks internship during the period of legal studies. It is clarified, however, in the said Rule that internship in any year cannot be for a continuous period exceeding four weeks. It is stated by the petitioners that they could complete, on an average, only 12 weeks internship during their course as none of the institutions prescribed in the Rules permitted internship during the last two years due to the outbreak of the pandemic, COVID - 19. It is also stated by the petitioners that they will not be able to complete the remaining period of their internship before culmination of the course as there will be online classes for them before the pending semester examinations. It is alleged by the petitioners that if the term of the internship provided for in the Rules is not appropriately relaxed, the petitioners would not be in a position to complete their course. The petitioners, therefore, seek appropriate directions in this regard in the writ petition.

2. A statement has been filed by the Bar Council

of India indicating, among others, that the grievance voiced by the petitioners is genuine and the University to which the college is affiliated is free to adopt any other appropriate measures which they may feel adequate to satisfy the requirements of the course.

3. Heard the learned counsel for the petitioners, the learned Standing Counsel for the Bar Council of India as also the learned Standing Counsel for Mahatma Gandhi University.

4. The learned counsel for the petitioners as also the learned Standing Counsel for the Bar Council of India reiterated the stand taken by them in their respective pleadings. The learned Standing Counsel for the University, however, pointed out that insofar as the Rules of Legal Education framed by the Bar Council of India remain intact, the University may not be in a position to adopt any other method to satisfy the requirements of the course.

5. I have examined the submissions made by the learned counsel for the parties on either side.

6. Rule 24 of Schedule II to the Rules of Legal Education framed by the Bar Council of India reads thus:

Moot court exercise and Internship: This paper may have three components of 30 marks each and a viva for 10 marks.

(a) Moot Court (30 Marks). Every student may be required to do at least three moot courts in a year with 10 marks for each. The moot court work will be on assigned problem and it will be evaluated for 5 marks for written submissions and 5 marks for oral advocacy.

(b) Observance of Trial in two cases, one Civil and one Criminal (30 marks): Students may be required to attend two trials in the course of the last two or three years of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the court assignment. This scheme will carry 30 marks.

(c) Interviewing techniques and Pre-trial preparations and Internship diary (30 marks): Each student will observe two interviewing sessions of clients at the Lawyer's Office/Legal Aid Office and record the proceedings in a

diary, which will carry 15 marks. Each student will further observe the preparation of documents and court papers by the Advocate and the procedure for the filing of the suit/petition. This will be recorded in the diary, which will carry 15 marks.

(d) The fourth component of this paper will be viva voce examination on all the above three aspects. This will carry 10 marks.

Rules 25 of Schedule III to the said Rules reads thus:

Minimum Period of Internship: (a) Each registered student shall have completed minimum of 12 weeks internship for Three Year Course stream and 20 weeks in case of Five Year Course stream during the entire period of legal studies under NGO, Trial and Appellate Advocates, Judiciary, Legal Regulatory authorities, Legislatures and Parliament, Other Legal Functionaries, Market Institutions, Law Firms, Companies, Local Self Government and other such bodies as the University shall stipulate, where law is practised either in action or in dispute resolution or in management.

Provided that internship in any year cannot be for a continuous period of more than Four Weeks and all students shall at least gone through once in the entire academic

period with Trial and Appellate Advocates.

(b) Each student shall keep Internship diary in such form as may be stipulated by the University concerned and the same shall be evaluated by the Guide in Internship and also a Core Faculty member of the staff each time. The total mark shall be assessed in the Final Semester of the course in the 4th Clinical course as stipulated under the Rules in Schedule II.

In the light of the extracted Rules, the case of the petitioners that it is mandatory for them to undergo internship for a period of 20 weeks has to be accepted. The fact that the petitioners could not undergo internship during the last two years for reasons not attributable to them is not disputed either by the Bar Council of India or by the University. Similarly, the fact that it is impossible for the petitioners to complete the remaining period of their internship before the culmination of their course is also not disputed either by the Bar Council of India or by the University. While the Standing Counsel for the Bar Council of India submits that the University is free to adopt any other measures in the place of the period of internship not undergone

by the candidates, the Standing Counsel for the University takes the stand that so long as the Rules of Legal Education framed by the Bar Council of India remain intact, they may not be justified in doing so. The question, therefore, is as to whether the University is justified in taking the aforesaid stand.

7. The Rules of Legal Education are rules framed by the Bar Council of India in exercise of its function under Section 7(1)(h) of the Advocates Act, 1961. In terms of the said provision, it is the function of the Bar Council of India to promote legal education by laying down its standards in consultation with the Universities in India and the State Bar Councils. The said Rules is only suggestive of the ways and means to promote legal education and it is for the universities to make appropriate regulations prescribing the curriculum for the course, having regard to the standards prescribed by the Bar Council of India [See **V.Sudeer v. Bar Council of India**, (1999) 3 SCC 176]. In the case on hand, it is conceded by the

learned Standing Counsel for the University that the University has so far not framed any regulations prescribing the curriculum for the course and instead, they are following the Rules prescribed by the Bar Council of India as the curriculum for the course. Insofar as the Rules prescribed by the Bar Council of India is only suggestive of the ways and means to promote legal education, according to me, the same will not stand in the way of the University making appropriate changes in the curriculum in contingencies of the instant nature, especially when the competent authority for prescription of the standards of legal education, viz, Bar Council of India itself has permitted the University to do so. Further, since the law does not contemplate a vacuum, doctrine of necessity is applied to tide over situations of the instant nature. The doctrine permits certain things to be done as a matter of necessity which would not otherwise countenance on the touchstone of judicial propriety. The logic behind the principle is that if the doctrine is

not pressed into service in situations of difficulty, there would be obstruction to the course of justice. Needless to say, the doctrine of necessity also confers authority on the University to adopt the course suggested by the Bar Council of India so as to enable the petitioners to complete their course.

In the result, the writ petition is disposed of directing the second respondent University to adopt appropriate other measures which it may feel adequate to satisfy the requirements of the course in the place of the period of internship not undergone by the petitioners and others who have been admitted for the Five Year integrated Law Degree course during the academic year 2016 - 2017. This shall be done as expeditiously as possible, at any rate, within six weeks.

Sd/-

P.B.SURESH KUMAR, JUDGE

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APPENDIX

PETITIONER ANNEXURE

EXHIBIT P1	A TRUE COPY OF THE RULES OF LEGAL EDUCATION, 2008 LAY DOWN BY THE 1ST RESPONDENT.
EXHIBIT P2	A TRUE COPY OF THE LETTER DATED 25.11.2020 ISSUED BY THE 1ST RESPONDENT TO THE RESPONDENT 2 AND 3.