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

Judgment Reserved on: 21.11.2019

% ***Judgment Pronounced on***: 16.06.2020

+ W.P.(C) 1994/2018
ALISHA GUPTA ..... Petitioner
Versus
GURU GOBIND SINGH
INDRAPRASTHA UNIVERSITY & ANR. ..... Respondents

+ W.P.(C) 1993/2018
PRATYUSH NARNAWRE ..... Petitioner
Versus
GURU GOBIND SINGH
INDRAPRASTHA UNIVERSITY & ANR. ..... Respondents

+ W.P.(C) 1995/2018
PARTH SALUJA ..... Petitioner
Versus
GURU GOBIND SINGH
INDRAPRASTHA UNIVERSITY & ANR. ..... Respondents

+ W.P.(C) 1996/2018
PHUNTSOG DOLKAR ..... Petitioner
Versus
GURU GOBIND SINGH
INDRAPRASTHA UNIVERSITY & ANR. ..... Respondents

Present: Ms.Akanksha Rai and Mr.Luxman S.Hasan, Advs. for the petitioners.
Ms.Anita Sahani, Adv. for R-1/GGSIU.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. These are four writ petitions filed by the petitioners who are all students of University School of Biotechnology i.e. respondent No. 2

affiliated with Guru Gobind Singh Indraprastha University/respondent No.1. They have approached this court praying for a direction to quash the order dated 30.01.2018 whereby they have been detained in the end term examination of November-December 2017 due to shortage of their attendance for the semester August to November, 2017. The facts of the four cases are more or less identical. The issues raised are also identical. The aforesaid four petitions are disposed of by this common judgment.

2. For the sake of convenience, facts of W.P. (C) 1994/2018 titled as *Alisha Gupta vs. Guru Gobind Singh Indraprastha University & Anr*. are being narrated in the present judgment.

3. This writ petition is filed by the petitioner seeking the following reliefs:-

> "a) Issue a writ/direction of mandamus under article 226 of the constitution of India or other appropriate writ thereby quash/set-aside the order/notice dated 30.01.2018 passed by the respondent no.2 in respect of the Petitioner; and
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> b) Issue a writ/direction of mandamus under article 226 of the constitution of India or other appropriate writ thereby promote the Petitioner to the 6th Semester to attend the classes;"

4. The case of the petitioner is that she is a young 21 year old student doing Bachelor of Technology (B.Tech.) in Biotechnology with respondent No.2 which is affiliated with Guru Gobind Singh Indraprastha University/respondent No.1.

5. It is further stated that in the Vth Semester after joining respondent No. 2 on 01.08.2017, the petitioner got seriously ill and had taken treatment from different doctors. Intermittently thereafter, she had been taking leave and could not attend classes due to her illness.

6. It is further pleaded that normally the lecturers used to disclose the

attendance record of each batch to the students but in the whole Vth semester, the attendance details were published only twice i.e. for the month of August, it was published at the end of September and the list for the months August to October was published on 10.11.2017. It is claimed that the final list showing the actual attendance details for the whole semester was never published/posted on the notice board and the petitioner and other students were never informed about the same.

7. It is further pointed out that under Clause 9.2 of the Ordinance of March 2015, the Dean of the School, etc. has to announce the names of all students who are not eligible to appear in the semester end term examination at least 5 calendar days before the start of the semester end term examination. It is stated that no such notification was ever issued before the semester end examination. Practical examinations for the Vth semester were started on 13.11.2017. It is stated that a vague notice dated 28.11.2017 was placed on the board only 2-3 days prior to the theoretical examination which was to commence on 01.12.2017 which also did not mention that the students had been detained. It is an admitted fact that the attendance stipulation is 75%.

8. On 29.11.2017, the petitioner with four other students wrote a representation to the respondents with a request that they are falling short of the requisite attendance by a meagre margin. The reasons for the absence were pointed out including financial crisis, health issues and involvement in a number of co-curricular activities throughout the semester. There was no reply received by the petitioner or the other students. It is stated that the petitioner and other students were allowed to participate in the examination. It is also pointed out that the petitioner was forced to give an undertaking at the time of taking the said

examination that her admit card had been lost/misplaced/destroyed. Though, for the reasons best known to the administration, an admit card had not been issued to the petitioner. The petitioner and other students also attended the classes for the VIth semester from 08.01.2018 to 31.01.2018 as their names were on the attendance sheet of the VIth semester.

9. On 31.01.2018, the petitioner and other four students were surprised to get a notice dated 30.01.2018 stating that they were detained in the end term examination Nov.-Dec. 2017 due to shortage of attendance in the semester August 2017 to November 2017. It is further stated that they were required to seek re-admission in B.Tech. (Bio Tech.) Vth semester.

10. It is the case of the petitioner that the impugned order dated 30.01.2018 is illegal, arbitrary and null & void. It is also contrary to Clause 9.2 of the Ordinance of March 2015 and is liable to be struck down.

11. It is further stated that the attendance of the petitioner and other students is only marginally below the stipulated 75%. The detail of the attendance that has been recorded is as follows:-

S. No.	Name	Enrolment No.	Attendance (%)
1.	Parth Saluja	06316001315	68.5%
2.	Phuntsong Dolkar	00216001315	67%
3.	Pratyush Narnawre	05916001315	65.4%
4.	Sonam Dorjee	70116001315	65%
5.	Alisha Gupta	05816001315	63.5%

12. Respondent No. 1-University has filed a counter affidavit. Reliance is placed on Clause 9 of Ordinance 11 to point out that a stipulation exists

for a minimum attendance of 75% in the aggregate of all the courses taken together in a semester with a discretion to the Dean of the School/Principal/Director to condone attendance shortage upto 5% for individual student for reasons to be recorded.

13. It is stated that the petitioner and other four students were very well aware of the status of their attendance. The allegation of non-display of notices is an afterthought. It is pointed out that the issue of attendance shortfall was informed by e-mail by the office of the Dean vide e-mail dated 20.09.2017 and 10.11.2017. Their parents were also sent individual letters by speed post on 09.09.2017 and 13.11.2017. A notice dated 09.11.2017 was also published where the students were advised to see their cumulative aggregate attendance. The practical exams were held and due to shortage of time, the students were allowed to appear in the practical exams starting 13.11.2017.

14. A notice dated 28.11.2017 was published in compliance with Clause 9 of Ordinance 11. The petitioner along with other students signed a representation to the Vice Chancellor on 29.11.2017 stating "Plea against detention due to shortage of attendance". Hence, it is stated that the petitioner and other students were fully aware that they were short of attendance and the notice of the Dean dated 28.11.2017 was effectively a notice of detention as per the provisions of Clause 9 of Ordinance 11.

15. It is further stated that the petitioner was not issued the admit card by the answering respondent based on the said notice. However, the petitioner clandestinely appeared in the Vth semester on a false plea that she had misplaced her admit card.

16. The next semester commenced on 08.01.2018. The attendance sheet was carried forwarded from the previous semester and the name of

the petitioner appeared in the attendance sheet. Hence, the petitioner started attending the classes. It was noticed by the teacher concerned that petitioner had been attending classes unauthorizedly. As soon as this fact came to the notice of the Dean of the School, the notice dated 30.01.2018 was put on the notice board that the petitioner was not allowed to attend the classes of the VIth semester and was asked to seek re-admission in the Vth semester.

17. I may note that on 01.03.2018, this court noted that the petitioner has made out a prima facie case and irreparable loss and damage would be caused to her in case the operation of the impugned order dated 30.01.2018 passed by the respondent is not stayed as it would lead to loss of an entire academic year of the petitioner. This court stayed the operation of the impugned order dated 30.01.2018 and directed the respondents to permit the petitioner and other students to appear in the classes and the ensuing exams of the VIth semester.

18. On 22.11.2018, this court permitted the petitioner to appear in the VIIth semester examination of B.Tech. (Biotechnology) which was to be conducted from 26.11.2018. Such participation was without prejudice to the rights and contentions of the parties and it was also clarified that it would not result in creating any equities whatsoever in favour of the petitioner. I am informed that the petitioners have also appeared in the VIIIth semester exam and have completed the course. Their result has not been declared by the respondent

19. I have heard learned counsel for the parties.

20. Learned counsel for the petitioner has reiterated that there is complete non-compliance of Clause 9.2 of the Ordinance inasmuch as for the first time the petitioner was informed about the detention due to

shortage of attendance only after the classes of the VIth semester had commenced vide impugned notice dated 30.01.2018. There was no earlier information or notice stating that the petitioner and other students had been detained in the Vth semester. Reliance is placed on the judgment of this court in the case of ***Adarsh Raj Singh & Ors. Vs. Bar Council of India & Ors., MANU/DE/2359/2018***. It is reiterated that the impugned order dated 30.01.2018 is liable to be quashed.

21. Learned counsel appearing for respondent No.1 has reiterated that several notices were sent to the petitioner pointing out the shortage of attendance, details of which are stated in the counter-affidavit. It is also clear that on 29.11.2017, the petitioner and other students chose to send a representation pointing out that they have shortage of attendance. This representation was prior to commencement of the theoretical exams on 01.12.2017. It is further stated that no admit card was issued to the petitioner and other students but they manipulated and filed a false declaration that they have lost the admit cards to clandestinely appear in the Vth semester examination. Reliance is placed on the judgments of this court in the case of ***Ashutosh Bharti & Ors. vs. The Ritnand Balved Education Foundation & Ors., MANU/DE/0024/2005***, ***Guru Gobind Indraprastha University vs. Naincy Sagar & Anr.*** in LPA 713/2019 dated 19.11.2019 and ***Guru Gobind Indraprastha University vs. Ram Narayan Tiwari & Anr.*** in LPA 625/2017 dated 07.12.2018 to support the contention that where the attendance is short, no concession can be given to the students.

22. I may first look at the Ordinance which governs the issue of attendance. Clause 9 of Ordinance 11 reads as follows:-

> "9.1 A student shall be required to have a minimum attendance of 75% in the aggregate of all the courses taken together in a

semester, provided that the Dean of the School in case of University Schools and Principal / Director in case of University maintained / affiliated institutes may condone attendance shortage upto 5% for individual student for reasons to- be recorded. However, under no condition, a student who has an aggregate attendance of less than 70% in an semester shall be allowed to appear in the semester term end examination. Additional (not decreasing the provisions above) attendance requirement may be specified by Syllabi and Scheme of Teaching and Examination. For programmes regulated by a statutory regulatory body, if the statutory regulatory body provides for any specific guideline for attendance, the same shall be applicable as approved by the Board of Studies of the concerned school.

9.2 Student who has been detained due to shortage of attendance shall not be allowed to be promoted to the next academic year or semester and he/she will be required to take re-admission and repeat all courses of the said semester with the next batch of Students. The University Enrolment number of such student shall however remain unchanged and he or she shall be required to complete the programme in a maximum permissible period as mentioned in clause 4.3. Dean of the School /Director / Principal shall announce the names of all such students who are not eligible to appear in the semester term end examination, at least 5 calendar days before the start of the examination and simultaneously intimate the same to the Controller of Examinations.

9.3 In ease any detained student appears in the semester / supplementary examination, his / her result shall be treated as null and void."

23. A perusal of the above clause of the Ordinance shows that a student is required to have a minimum attendance of 75% in the aggregate of all the courses taken together in a semester. 5% attendance shortage can be waived by the concerned official for reasons to be recorded. A student who is detained due to shortage of attendance is

required to take re-admission and repeat all the courses of the said semester with the next batch of students. It is also clearly stated that the Dean of the School/Director/Principal shall announce the names of all such students who are not eligible to appear in the semester term end examination at least 5 calendar days before the start of the examination and also intimate the same to the Controller of the examination.

24. It is true that adherence to the attendance norms stipulated has to be strictly followed. In this context reference may be had to some of the judgments relied upon by the learned counsel for the respondent. In ***Guru Gobind Indraprastha University vs. Ram Narayan Tiwari & Anr. (supra)***, the Division Bench of this court held as follows:-

> "15. Despite coming to the above conclusion, the learned Single Judge observed that since the college had "slumbered over the matter and did not take any action" and admittedly did not communicate the results of his compartment exam to the University till December 2016, the contention of the Appellant that there could be no equity in his favour was "a misunderstood argument in the facts of the instant case." Relying on the judgment of the Supreme Court in ***Sanatan Gauda v. Berhampur University (1990) 3 SCC 23***, ***Miss Sangeeta Srivastava v. Prof. U.N. Singh AIR 1980 Del 27*** and ***Rajendra Prasad Mathur v. Karnataka University AIR 1986 SC 1448,*** the learned Single Judge held that the Appellant-University was estopped from cancelling the admission of Respondent No. 1 and that he should be allowed to complete the B. Tech course since he had, by the time of disposal of the writ petition, completed more than 50% of the course having being successfully appeared for 3 semesters having 60% marks.
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> 28. Consequently, this Court is of the view that in matter of such nature, there could be no question of equitable estoppel coming to the aid of the student. Ms. Sikri, learned counsel for the Appellant, has drawn the attention of the Court to the judgment in ***Maharashi Dayanad University v. Surjeet Kaur***

(2010) 11 SCC 159 where the Supreme Court observed, in matters concerning admission to academic institutions, in paras 18 and 19 as under:

> 18. There can be no estoppel/promissory estoppel against the Legislature in the exercise of the legislative function nor can the Government or public authority be debarred from enforcing a statutory prohibition. Promissory estoppel being an equitable doctrine, must yield when the equity so requires. (vide *Dr. H.S. Rikhy v. The New Delhi Municipal Committee AIR 1962 SC 554; M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu (1999) 6 SCC 464; Shish Ram v. State of Haryana (2000) 6 SCC 84; Chandra Prakash Tiwari v. Shakuntala Shukla (2002) 6 SCC 127; I.T.C. Ltd. v. Person Incharge, AMC, Kakinada AIR 2004 SC 1796; State of U.P. v. Uttar Pradesh Rajya Khanij Vikas Nigam Sangharsh Samiti (2008) 12 SCC 675; and Sneh Gupta v. Devi Sarup (2009) 6 SCC 194*).
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> 19. On the other hand, the conduct of the respondent was such that even though she had no statutory right or any vested right to pursue her B.Ed. course, the mistake on the part of the appellant to allow her to appear in the examination cannot be by any logic treated to be a conduct of the appellant to confer any such right on the respondent. The rules and regulations cannot be allowed to be defeated merely because the appellant erroneously allowed the respondent to appear in the B.Ed. examination. The records reveal that the respondent did not challenge the cancellation of her results in respect of 1995 examination. The said order attained finality. Respondent straightaway approached thDistrict Forum in the year 2000 for the conferment of B.Ed. degree in pursuance of the examinations conducted under the Notification dated 16.3.1998. This, in the opinion of the court, was a totally misdirected approach and the District Forum fell into error by granting the relief."

25. Similarly, reference may be had to another judgment of a Division Bench of this Court in the case of ***Guru Gobind Singh Indraprastha University vs. Naincy Sagar & Anr. (supra)*** where the court held as

follows:-

> "27. The importance attached to attendance in classes in a professional course like BA LLB/BBA LLB cannot be overstated. There are a line of decisions of the Supreme Court and the High Courts, where it has been opined that fixation of qualifying standards including minimum percentage of attendance is a matter which is best left to expert academic bodies and courts should be slow to interfere in such policy matters unless the decision taken is patently and palpably arbitrary, illegal or in violation of the Constitution of India. Once an academic body has decided on a minimum percentage of lectures that a student must attend at every stage or in the aggregate, then courts must shows deference to the said decision as the presumption is that being an expert in the field, the body has applied its mind before prescribing an eligibility criteria. {Refer: Ashutosh Bharti v. Ritnand Balved Education Foundation reported as **MANU/DE/0024/2005**, Siddharth Kaul and Ors. v. Guru Gobind Singh Indraprastha University **[W.P.(C) 7610/2011, decided on 02.12.2011],** University Grants Commission and Anr. v. Neha Anil Bobde (Gadekar) reported as **2013 (10) SCC 519** and Prateek Singhal v. National Testing Agency & Anr. reported as **2019 SCC OnLine 10873**}
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> 28. As noted above, no specific challenge has been laid by the respondents/students to the legality or validity of Clause 9.1 that prescribes a minimum attendance of 70% in the aggregate of all the courses taken together in a semester. All the same, it needs to be emphasized that an integrated LL.B course being a professional course, students must ensure regular attendance in classes and those who do not satisfy the minimum required percentage of attendance, will be held ineligible for promotion to the next academic year. We can do no better than advert to several authoritative decisions of the Supreme Court and of the High Court on this aspect including Baldev Raj Sharma v. Bar Council of India & Ors. **1989 Supp.(2) SCC 91**; Bar Council of India & Anr. V. Aparna Basu Mallick & Ors. **1994 (2) SCC 102**; S.N. Singh v. Union of India **106 (2003) DLJ 329**; Kiran Kumari v. University of Delhi and Ors. **[W.P.(C) 9143/2007];** Sukriti Upadhyaya (supra) and Chaudhary Ali Zia Kabir (supra). In Kiran Kumari (supra), a Division Bench headed by

> Hon‟ble the Chief Justice T.S. Thakur, as his Lordship then was, had expressed the following view:
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> xxx”

26. However, Clause 9.2 of the Ordinance has a stipulation that is relevant i.e. the names of all students who are not eligible to appear in the semester term examination shall be announced at least 5 calendar days before the start of the examination. Was this stipulation followed?

27. In the present case admittedly, the practical exams commenced on 13.11.2017. It is an admitted fact that the petitioner was allowed to give the practical exams on account of the fact that till then, attendance record had not been finalised. The respondent states that this was done on a “provisional basis, subject to finalization of the attendance”.

28. It is no doubt claimed by the University that on 13.11.2017, they sent a letter to the father of the petitioner pointing out that there is shortage of attendance of the petitioner for August-October 2017. It was further stated that if the total attendance of all the subjects falls below 75%, the petitioner will not be allowed to appear in the examination. This letter merely informed the attendance of the petitioner for a period from August-October 2017.

29. The main notice which is relied upon by the respondent to claim that the petitioner was communicated about the fact that she is being detained in the Vth semester for shortage of attendance is a notice dated 28.11.2017. This notice was put on the notice board. It is stated that this notice is in compliance of Clause 9 of Ordinance No. 11. The same reads as follows:-

> “NOTICE
>
> Following students are short of the requisite attendance for the end term examination, 2017

xxx

B.Tech. 3rd Year

1. ….
2. Alisha Gupta, Enrollment No. 05916001315

xxx

Sd/-
(Prof. N. Raghuram)
Dean University School of Biotechnology)"

30. Can it be said that this notice issued by the respondent No. 1 complies with Clause 9 of the Ordinance? A perusal of the notice dated 28.11.2017 shows that it only states that the students whose names are stated in the notice are short of attendance. It does not state that they are being detained in the said Vth semester. Further, the notice was issued on 28.11.2017 whereas admittedly the practical exams had begun on 13.11.2017. Hence, the notice was also issued much after the commencement of examination.

31. Clause 9.2 of the Ordinance as already noted above clearly stipulates that the Dean of the School/Director/Principal shall announce the names of all such students who are not eligible to appear in the semester term end examination at least 5 calendar days before start of the examination and simultaneously intimate the same to the Controller of the examination.

In my opinion, the notice dated 28.11.2017 is not in compliance of Clause 9.2 of the Ordinance. Firstly, it does not inform the students that they are being detained and are not eligible to appear in the Vth semester term end examination. There is no such statement in the said notice. Secondly, the notice was also much after the exams had already begun. The practical exam began on 13.11.2017. The theoretical exam was to

begin on 01.12.2017 i.e. the notice does not give five calendar days notice as stipulated for the theoretical exam also.

32. I may note the events that took place after 28.11.2017. In response to the aforesaid notice dated 28.11.2017, the petitioner and four other students wrote a representation on 29.11.2017 to the Vice Chancellor of respondent No. 1. The reasons for shortage of attendance were pointed out. Thereafter, as noted above, they also made a claim that they had lost the admit cards and got duplicate admit cards issued and appeared in the Vth semester examination. Thereafter, as their names continued to be reflected in the attendance sheet for the VIth semester, they attended the classes for the VIth semester till 31.01.2018 when a notice dated 30.01.2018 was placed on the board stating that they have been detained.

33. In my opinion, the subsequent facts as noted above which took place after the notice dated 28.11.2017 do not change the situation in any manner whatsoever.

34. It is settled position of law that where a statute requires a particular act to be done in a particular manner then such act has to be done in that manner only and no other manner. Reference in this context may be had to the judgment of the Supreme Court in the case of ***Surat Singh (Dead) vs. Sri Bhagwan & Ors., (2018) 4 SCC 562*** where the Supreme Court held as follows:-

> "32. It is a settled principle of rule of interpretation that whenever a statute requires a particular act to be done in a particular manner then such act has to be done in that manner only and in no other manner. (See *Interpretation of Statutes* by G.P. Singh, 9th Edn., p. 347 and *Baru Ram* v. *Prasanni* [*Baru Ram* v. *Prasanni*, AIR 1959 SC 93] .

35. In my opinion the above statutory provision has to be complied with strictly. This is so as the said stipulation of giving 5 calendar days advance notice to the students before start of examination informing them that they are not eligible to appear in the semester examination is a stipulation for the benefit of the students. It brings certainty to the procedure for stopping a student from sitting in an examination on the grounds of shortage of attendance. It is manifest from the events that have been stated above that the respondent failed to comply with the said provision of Clause 9.2 of the Ordinance in question.

36. There is another fact which I cannot ignore. This court on 01.03.2018 passed an order stating that the petitioners have made out a prima facie case and directed stay of the impugned order dated 30.01.2018. The petitioners were permitted to appear in the classes and ensuring exam for the VIth Semester. Similarly, by interim order dated 22.11.2018, the petitioners were allowed to appear in the examination for the VIIth semester for the course in question. I am told that the petitioners have also appeared in the VIIIth semester exam and have completed the course. Their exams results have however not been declared yet. Hence, the petitioners have completed the courses and have attended classes and have given the necessary exams. If no relief is granted to the petitioners despite the lapses on the part of the respondent as noted above i.e. non-compliance of Clause 9 of the Ordinance, it would cause grave and irreparable injury to the petitioners. Their 3 years of effort in completing the B.Tech. examination would get wasted. They will end up losing three years.

37. In this context reference may be had to the judgment of the Division Bench of this court in the case of ***University of Delhi vs. Varun***

Kapur, (2011) 1790 DLT 549 where the court held as follows:-

> "10. Learned Counsel for the Appellants concedes that it is too late in the day for the University to fill up the two vacant seats if Respondents are held ineligible candidates on the ground as urged by the University, notwithstanding that both of them have cleared the supplementary examination and are deemed to be candidates having obtained Graduate degree at par with the rest.
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> 11. Why should we not be situationalist Judges and not rationalist Judges? We think we should. It is not a case where wholly ineligible persons or persons who have obtained admission by dubious means would continue as students of the University of Delhi in the Faculty of Law. If we hold against the Respondents, two seats would go a begging, and this in our opinion would be contrary to public interest and thus the compulsion of the situation compels us to be situationalist Judges and uphold the view taken by the learned Single Judge."

38. I have already held above that there is non-compliance on the part of the respondent of Clause 9.2 of the Ordinance. The respondent completely failed to announce the names of the students who were not eligible to appear in the semester exam at least 5 calendar days before the start of the examination. The petitioners were allowed to give the Vth semester and thereafter, to sit in the classes in the month of January for the VIth semester. It is only on 30.01.2018 that they were stopped from further attending the VIth semester classes. The respondent cannot be allowed to ignore clause 9.2 of the Ordinance and act contrary to the same. I accordingly quash the order dated 30.01.2018 being illegal.

39. The next question that arises as what is the relief that is to be granted to the petitioners.

40. In this context, reference may be had to the judgment of a Coordinate Bench of this court in the case of ***Adarsh Raj Singh & Ors. vs. Bar Council of India & Ors. (supra),*** where this court held as

follows:-

> "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 [MANU/SC/0029/1964 : (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:-
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> > "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. [MANU/SC/0228/2004 : (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:-
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> 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. SV. BRATHEEP (MINOR) AND ANOTHER reported in MANU/SC/0228/2004: (2004) 4 SCC 513, while examining the issue of eligibility to admission. The relevant portion of the said judgment is extracted hereinbelow:
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> "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."

41. The relief as moulded in the above judgment appears to be appropriate. Accordingly, I direct the respondents to declare the result of

the petitioners from the Vth to VIIIth semester. Prior to declaring the results, the respondents are free, if they so desire, to organize appropriate additional classes for the petitioners for the Vth semester to enable the students to make up their attendance for the said year. In case the respondent decide to organise such additional classes, they may charge reasonable pro rata expenses from the petitioners for organizing such classes. On completion of the classes within one month of the present order, the respondent shall declare the result of the petitioners for the Vth semester to VIIIth semester.

42. With the above directions, the present writ petitions stand disposed of.

JAYANT NATH, J.

JUNE 16, 2020
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