

ITEM NO.105

COURT NO.6

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 816-817/2022

BAR COUNCIL OF INDIA

Appellant(s)

VERSUS

TWINKLE RAHUL MANGAONKAR & ORS.

Respondent(s)

(MR. K.V. VISHWANATHAN, SR. ADV.(A.C.) [RETAIN ITS POSITION])

Date : 15-03-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE M.M. SUNDRESH

Mr. K.V. Vishwanathan, Sr. Adv. (A.C.)

Mr. R. Venkatraman, Adv.

Mr. Amartya Sharan, Adv.

Mr. Rahul Sangwan, Adv.

Mr. M.G. Aravind, Adv.

Mr. Chanakya Dwivedi, Adv.

Mr. K. Sivagnanam, Adv.

For Appellant(s)

Mr. S.N. Bhatt, Sr. Adv.

Mr. N.P.S. Panwar, Adv.

Mr. D.P. Chaturvedi, Adv.

Mr. Tarun Kumar Thakur, Adv.

Ms. Parvati Bhat, Adv.

Mr. Durga Dutt, AOR

For Respondent(s)

Ms. Megha Jani, Adv.

Ms. Anushree Prashit Kapadia, AOR

Ms. Priyanka Rathi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned counsel for the parties for better part of two hours.

In the course of hearing the following aspects were debated and learned counsel for Bar Council of India requires some time to obtain

requisite instructions in that behalf :

1) The right to practice a profession, also being a fundamental right, a balance has to be maintained between the same and the requirement to monitor the legal profession for its better ethics. An alternative to the impugned judgment which reads down the rule would be if necessarily a link is not made between enrollment and ability to take the exams. There may be candidates who want enrollment immediately thereafter and they require to clear the examination within a period of 2 years from enrollment. On the other hand, there may be persons who are carrying on jobs but would like to take the examination of the Bar Council for entry into the profession giving them the choice to resign from the job instead of first resigning from the job and then taking the examination which can become a difficult decision of economic necessity. A segregation which was debated was that in case of persons in jobs wanting to take the Bar exam, they cannot be given enrollment provisionally or otherwise. In such a situation, they may be issued only a roll number to take the examination and that exam should be treated as in furtherance of

ultimately the aspect of enrollment as and when it arises. However, having taken the Bar exam and if succeeded in the same, it cannot imply that the clearance of that Bar exam can amount to an indefinite postponement of a decision to seek enrollment or not. Thus, the suggestion made is that the result of the Bar exam, if successful, would hold good for three years within which the candidate can take the choice and if he continues his job for a longer period of time, he may be again required to take the Bar exam at the appropriate stage, as such long hiatus period may otherwise snap the link. Learned Amicus Curiae also suggests that there can be a *viva* exam for such candidates.

2) The desirability of having better accountability from law colleges on account of their growth and the absence of requisite faculty. A more monitored process by the Bar Council of India would be required to ensure that a law college which obtain recognition once, does not rest on that and is required to maintain the parameters as set forth by the Bar Council.

3) The Bar exam for the significant step to have

a uniformity in the entrance merits of the lawyers into the profession. In order to make it more meaningful, the exam process can be one to test the skill and knowledge of a practitioner of law in a better manner not necessarily based on a rote ability but on analytical thinking process. In order to ensure that the candidates don't just take advantage of random answers made without any consequence of a wrong answers, 1/4th negative mark could be assigned for every wrong answer. This may not be uniform throughout the paper but in certain nature of questions posed, this should be introduced in that particular section.

The principles derived from other jurisdictions on Bar examination can be taken note of and Mr. Viswanathan, learned Amicus Curiae has pointed out that in UK the exams are based on the 'Miller Pyramid Scheme' of evaluation in all aspects of reading, writing, expression and communication of a prospective Bar entrance is evaluated. In USA some questions are marked with no provision of negative marking and there may be questions, in the very nature of things there, there may be more than one answer possible.

4) Evolving a fair system for juniors to find placement in chambers.

We desire and expect the Bar Council of India to act with expedition in the aforesaid process despite the large number of tasks to perform. Thus, instructions must be obtained by Mr. S.N. Bhatt, learned senior counsel after appropriate meetings of the Bar Council before the next date of hearing.

List on 12.04.2022.

[ASHA SUNDRIYAL]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)