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

Date of Decision: 28th November, 2024

\+ W.P.(C) 16445/2024

MEHAK OBEROI .....Petitioner

Through: Mr. Manish Kaushik, Mr. Mishal Johari, Mr. Ajit Singh Joher, Mr. Anubhav Gupta, Mr. Aryan Pandey, Mr. Chirag Sharma, Mr. Mainak Sarkar, Ms. Aparna Kushwah, Advocates

versus

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

Through: Mr. Preetpal Singh, Mr. Yash Saini, Advocates for Bar Council of India
Mr. T. Singhdev, Mr. Tanishq Srivastava, Ms. Yamini Singh, Mr. Abhijit Chakravarty, Mr. Arun Hussain, Mr. Bhanu Gulati, Mr. Aabhas Sukhramani, Advocates for R-3

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

CM APPL. 69431/2024 (*Exemption)*

1. Exemption is granted, subject to all just exceptions.

2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

3. Accordingly, the application stands disposed of.

W.P.(C) 16445/2024 & CM APPL. 69430/2024 (*for interim relief*)

4. The Petitioner, an Indian citizen, completed her law degree from the University of Buckingham in the United Kingdom, a university recognized by the Bar Council of India.[1] Thereafter, she pursued and successfully completed a two-year bridge course from the National Law University, Delhi,[2] a recognized institution in India. She has filed the present petition challenging the notification dated 11th November 2024 issued by BCI, which schedules the '21st Qualifying Examination for Indian Nationals Holding Foreign Law Degrees'. The Petitioner argues that, despite having cleared two examinations conducted by two recognised universities, she is being compelled to appear for an additional Qualifying Examination. She contends that this requirement is discriminatory, compared to similarly placed citizens who have completed their L.L.B. degrees in India.

Factual Background

5. The facts leading to the initiation of the present proceedings is as follows:

5.1 The Petitioner completed her 12th Grade under the Central Board of Secondary Education from Modern School, Vasant Vihar, Delhi in 2016.

5.2 She then pursued and obtained her L.L.B. degree in 2020 from the University of Buckingham, receiving her degree certificate on 20th March 2020.

5.3 Upon returning to India, she sought and received permission from the BCI to undergo a two-year bridge course to achieve equivalence with an Indian L.L.B. degree. In accordance with this permission, she enrolled at NLU Delhi and completed the bridge course. On 5th September 2024, NLU

[1] "BCI"
[2] "NLU Delhi"

Delhi awarded her a certificate of completion, signifying her readiness to embark on legal practice in India.

5.4 Subsequently, the BCI, issued the impugned notification dated 11th November, 2023, scheduling 'Qualifying Examination for Indian Nationals Holding Foreign Law Degrees'.[3]

Contentions of the parties

6. In the above background, the Petitioner has approached this Court, assailing the impugned notification on the ground that the Petitioner is not required to appear in the ensuing Qualifying Examination in order to be enrolled with the BCI. The Petitioner's contentions are as follows:

6.1 The Petitioner has already cleared examinations from two BCI recognised universities—the University of Buckingham and NLU Delhi, and thus, should not be mandated to appear for a third examination. This requirement is discriminatory, as other citizens who complete their LLB from India are not subjected to a third examination.

6.2 The Petitioner has successfully completed the bridge course designed by the BCI and conducted by NLU Delhi. The course encompassed the subjects included in the Qualifying Examination syllabus. Requiring her to appear for the Qualifying Examination, therefore, is redundant and unjustified.

6.3 The impugned requirement imposes additional financial burden on the Petitioner. Having already paid substantial fees for the bridge course, she is now expected to incur additional expenses for the Qualifying Examination. Such exorbitant costs may deter students from pursuing legal education abroad, which could otherwise enrich the Indian legal profession with

[3] "Qualifying Examination"

diverse perspectives.

6.4 The mandatory requirement of clearing the Qualifying Examination constitutes an irrational and artificial barrier, serving no legitimate purpose. There is no intelligible differentia for imposing the said examination exclusively on students with foreign degrees, especially when they have already bridged any educational gaps through recognized courses.

6.5 The High Court of Karnataka in ***Karan Dhananjaya v. The Bar Council of India***,[4] had exempted the petitioner from appearing for the Qualifying Examination after he had completed a three-year Bachelor of Law with Honours from a BCI recognised University abroad and a two-year bridge course from National School of Indian University, Bangalore. Based on the impugned notification, the court directed the State Bar Council to enrol him based on the results of the bridge course.

6.6 The Supreme Court in ***Gaurav Kumar v. Union of India & Ors***.,[5] has held that the powers conferred upon the BCI are not absolute or unfettered, but are subject to reasonable restrictions. Therefore, such powers must be exercised with considerations of fairness, rationality and proportionality.

6.7 The impugned notification is liable to be quashed and the Petitioner ought to be given provisional registration by Respondent Nos. 1 and 3. The Petitioner ought to be accorded the same treatment in obtaining provisional enrolment, in appearing in the All India Bar Exam and obtaining Certificate of Practice after obtaining Law Degree from Foreign University recognized by Respondent Nos. 1 and 3.

7. On the other hand, Mr. Preetpal Singh, counsel for BCI, and Mr. T. Singhdev, counsel for Bar Council of Delhi, strongly oppose the petition.

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[4] W.P.(C) 29996/2024, decided on 13th November, 2024.
[5] (2024) SCC OnLine SC 184.

They point out that the Petitioner was explicitly informed about the requirement to appear for the Qualifying Examination in the BCI's letter dated 26th October 2021, which granted her permission to undergo the bridge course. Having been aware of this condition and having acted upon it by enrolling in the bridge course, the Petitioner cannot now challenge the requirement at this belated stage. Furthermore, they argue that the judgment relied upon by the Petitioner in ***Karan Dhananjaya*** is factually distinguishable and inapplicable to the present case.

Analysis and findings

8. The Court has considered the aforenoted contentions. The central issue before this Court is whether the BCI can mandate candidates with foreign degrees, to clear the Qualifying Examination. The said power arises from Rule 37 of Chapter V of Part IV of the Bar Council of India Rules, which stipulates as follows:

> *"37. Degree of a Foreign University obtained by an Indian citizen*
> *If an Indian national having attained the age of 21 years and obtains a degree*
> *in law from a Foreign University such a degree in law can be recognized for the purpose of enrolment on fulfillment of following conditions:*
>
> *(i) completed and obtained the degree in law after regularly pursuing the course for a period not less than three years in case the degree in law is obtained after graduation in any branch of knowledge or for a period of not less than five years if admitted into the integrated course after passing +2 stage in the higher secondary examination or its equivalent; and*
>
> ***(ii) the University is recognized by the Bar Council of India and candidate concerned passes the examination conducted by the Bar Council of India in substantive and procedural law subjects, which are specifically needed to practice law in India and prescribed by the Bar Council of India from time to time as given in the schedule XIV.***
>
> *Provided that those who joined LL.B. course in a recognized Foreign University prior to 21st February, 2005 the date of notification in this regard by the Bar Council of India need not seek for such examination, other aforesaid condition remain same.*

> *Provided the same privilege shall be also extended to Persons of Indian Origin having double citizenship in India."*
>
> [Emphasis Supplied]

9. The aforesaid provision was passed pursuant to resolutions passed by the BCI, which have been duly taken note of by this Court in LPA No. 543/2023 titled ***Bar Council of India v. Kapil Kher & Ors.*** When the Petitioner approached the BCI seeking permission to undertake the bridge course, they issued a communication dated 26th October 2021, which unambiguously outlined the conditions attached to her pursuit of legal practice in India, in the following terms:

> *"**The candidate/s are further informed that after they pass the Bridge course exam, they shall become eligible to sit for the Qualifying Examination for Indian Nationals Holding Foreign Law Degrees, passing which, will entitle them to be enrolled into the Indian Bar subject to satisfaction of other prerequisites of enrolment as per the Advocates Act, 1961 and/ or as per rules of the concerned State Bar Council and Bar Council of India.***
> *It is to bring to the kind knowledge, that the Academic Committee of the Bar Council of India vide its meeting dated 14.07.2019 had specified that no applicant seeking equivalence of his/her LL.B degree obtained from abroad with an Indian LL.B degree who may be required to undertake a one year /two year Bridge Course for such purpose of equivalence should directly approach any National Law School. They have to first apply to BCI for such application to be considered and processed by/ through the Bar Council of India.*
> *Thus,all, any candidate/s having done law from abroad have to necessarily first apply to Bar Council of India to seek equivalence of his/her degree and seek out the options available to such candidate, and no candidate can directly apply for the Bridge Course and nor can the Universities directly admit candidates to the Bridge Course unless referred by way of a similar letter akin to this instant letter, by the Bar Council of India.*
> *As per the decision of the Bar Council of India, if any candidate is enrolled directly into the Bridge course, he/she may not be permitted to sit for the qualifying exam for Indian Nationals Holding foreign Law Degrees.*
> *All these applications have been processed by the Bar Council of India. Therefore, the respective Universities, are/is requested to kindly admit/enroll the candidate/s for the one year/two year bridge course as specified against their names, upon the candidates approaching any of*

> *the aforesaid Universities with such a request for the academic session 2021-2022, with prior intimation to the Bar Council of India by way of email.*
> *The candidate/s as well as the University/ies has/have to also intimate the BCI as to where the candidate/ s took admission for the Bridge Course.*
> *The candidate/sis/are requested and directed to keep clear and legible self attested copies of their educational qualifications right from class 10th onwards, till now, with all mark sheets, certificates and degrees etc. ready and at their disposal to be submitted/shown to the Universities or again to BCI, if called for. The original documents shall also be required to be shown to the Universities as and when called for.*
> *The University/ies, whichever University is approached by the candidate/s with this letter, are/is requested to kindly admit the said candidate/s to the said one year/twoyear Bridge course for the purpose of equating their Foreign Law degree with an Indian Law degree/ LLB subject to final clearance of the Qualifying Exam for Indian Nationals Holding Foreign Law degrees for the purpose of enrolment in the Indian Bar, being conducted by the Bar Council of India since the year 2005."*
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> [Emphasis Supplied]

10. A plain reading of this communication leaves no room for doubt that the Petitioner was fully aware of the requirement to clear the Qualifying Examination as a precondition for enrolment under the Advocates Act, 1961. She accepted this condition without any reservation and proceeded to enrol in the bridge course accordingly. By voluntarily acting upon the communication and undertaking the bridge course, the Petitioner has implicitly acknowledged and accepted the regulatory framework governing her enrolment. Permitting her to now challenge this condition, particularly when the examination schedule has already been notified, would run counter to the well-settled principle that one cannot approbate and reprobate. It is axiomatic that a person who accepts the benefit of a condition cannot subsequently contest the corresponding obligation arising from the same.

11. Be that as it may, reliance placed by the Petitioner on the Karnataka High Court judgment in ***Karan Dhananjaya***, is misplaced. That case

concerned an Indian national, who had completed his 12th standard education in India before pursuing a Bachelor of Laws (Honours) degree at Birmingham City University, a BCI recognised institution. After completing the three-year law course in 2020, the petitioner returned to India with the intention of practicing law. To achieve equivalence with Indian standards, he enrolled in a two-year bridge course at the National School of Indian University, Bangalore, an institution recognised by the BCI. Upon successfully completing the bridge course, the petitioner sought enrolment with the Karnataka State Bar Council. However, he was informed that appearing for the Qualifying Examination was a prerequisite for enrolment with the Karnataka Bar Council. This led the Karnataka High Court, making the following observations:

> *"9. The relevant portion of the notification dated 21.2.2023 for examining the above is extracted hereunder;*
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> > *Notification relating to Recognition by Bar Council of India of Foreign Universities imparting Legal Education and issuing Law Degrees and Equivalence of Law Degrees by Bar Council of India of Law Degrees obtained from Foreign Universities by Indian Citizens.*
> >
> > *This is to notify that any Law Degree obtained by an Indian citizen from a foreign University, not recognized by the Bar Council of India, with effect from admissions taken from the academic session 2023-2024 shall not be eligible to be equated to a corresponding Law Degree obtained from an Indian University and the Indian citizen shall not be considered eligible to appear in the Qualifying Examination For Indian Nationals Holding Foreign Law Degrees for purposes of equating such degree and resultantly shall not be eligible to be enrolled with any State Bar Council. The reason is that, it is necessary to examine the details of courses, infrastructure, International scholarships and other requirements which are needed for an Indian student pursuing Legal Education in a foreign country. Therefore, unless the eligible to be equivalent law*

Degree is granted by any foreign institution duly recognised by the Legal Education Committee of Bar Council of India, subject to such law degree holders qualifying in the Qualifying Examination For Indian Nationals Holding Foreign Law Degrees for the purposes of equating such degree, and subject to them further fulfilling prerequisites of enrolment as per Advocates Act, 1961, along with BCI and State Bar Council relevant rules for enrolment, they cannot be enrolled in India.

In India, the pattern for pursuing a Law Degree is either 12 + 3 years (graduation) + 3 years LLB degree OR 12 +5 years integrated law degree.

***Law Degree from a foreign university, whose Law Degree is recognised by the** Bar Council of India can make up the deficient years by pursuing 1 years or 2 years of Bridge Degree Course in accordance to the deficient years from India International University of Legal Education and Research, Goa. For eg. If an Indian Citizen has done 12+ 3 years Law Degree from a foreign University whose law Degree is recognized by Bar Council of India, then he/she can make up such deficiency by pursuing 2 years of Bridge course from India as stated above. On the other hand, if an Indian citizen has done 12+3 (graduation) + 3 years Law Degree from a foreign University recognized by Bar Council of India, then he/she need not pursue any Bridge course and shall be eligible to appear in the Qualifying Examination For Indian Nationals Holding Foreign Law Degrees after obtaining a letter/certificate from Bar Council of India, stating that the said foreign degree shall be considered to be equivalent to a corresponding Indian Law degree subject to the candidate qualifying in Qualifying Examination For Indian Nationals Holding Foreign Law Degrees.*

10. A perusal of the above would indicate that the Bar Council of India has recognized that in India the Law Degrees are of two kinds. One is 12+3 years (graduation+3 years LLB) and the other being 12+5 years (Integrated Law Degree).

11. The Bar Council has also taken into account that in other countries the Law Degrees taken up by students could be 10+3 (under graduation + 3 Law Degree), 10+3+graduation+4 Law Degree and 12+3 graduation+3 years Law Degree. Insofar as 12+3 Law Degree is concerned for a foreign university, a Bridge Course of two years is

prescribed and insofar as 12+4 years of Law Degree is concerned, a bridge Course of one year has been prescribed.

12. Thus, it is clearly seen that what is sought to be achieved by the Bar Council of India in terms of equivalence is to bring it in line with 10+5 years. Thus 10+3+2 would also lead to 10+5, 10+4+1 would also lead to 10+5.

13. There is one other distinction which has been made by the Bar Council of India as regards the Indian citizen who has done 12+3 graduation + 3 years Law Degree from a Foreign University. Though there is no distinction as such made as to whether 3 year graduation is done in India or abroad, what has been mandated is, if a 3 year Law Degree is done from a Foreign University recognized by the Bar Council of India, then in such case, the said person need not pursue any bridge course and shall be eligible to appear in the qualifying examination for Indian nationals who holding foreign Law Degree. This being simply for the reason, that the person has done 12+ 3+3 i.e., that is 12+ 6, which is over and above the requirement of 10+5 mentioned above.

14. Therefore, there would be no requirement to enroll in a Bridge Course. The equivalence being achieved to reach 10+5, there is no requirement mandated to take up a Bridge Course if a person has done 12+3+ 3 years. It is only in such circumstances that it is stated that such person shall be eligible to appear for the qualifying examination after completion of 12+3 +3 as referred to supra and as extracted hereinabove, insofar as 12+3 or 12+4 is concerned, a Bridge Course is mandated and in regard to that mandate, there is no requirement which has been made applicable as regards taking a qualifying examination.

15. The qualifying examination being restricted only to a situation where Bridge Course is exempt i.e., where a student has taken up 12+3+3. Hence, I am of the considered opinion that, now reading both the requirements conjunctively is not permissible, the requirement for 12+3 and 12+4 being a Bridge Course, no qualifying examination is prescribed. The requirement for 12+3+3 years not requiring a Bridge Course qualifying examination is prescribed.

16. The other qualifying examination which has been prescribed in the All India Bar Examination (AIBE) is one which is required to taken by all the students irrespective of they being Indian Law Degree holders or a Foreign Degree Holders, whether they have done the Bridge Course or not. So the requirement of AIBE will have to be satisfied but all the students.

17. In view of the above, in the present case, the petitioner being a 12 + 3 Law Degree holder from a foreign university and having completed 2 years of Bridge Course, I am of the considered opinion that in terms of the notification dated 21.3.2023, such degree holder is not required to take up any other qualifying examination other than the All India Bar Examination (AIBE), as such I pass the following;

ORDER

*i. This petition is **allowed.***

ii. Respondent No. 3 is directed to enrol the petitioner as its rolls on the basis of the results of the Bridge Course without insisting for any other qualifying examination.

iii. Respondent No. 3 shall act on a copy of the operative portion of the order without insisting on the entire order."

12. Although the Petitioner herein and the petitioner in ***Karan Dhananjaya's*** case share certain similarities in their educational trajectories, the two cases are clearly distinguishable. The ***Karan Dhananjaya*** judgment dealt with a 2023 notification that delineated specific combinations of legal education and the corresponding obligations for candidates. In contrast, the present case revolves around the notification dated 11th November, 2024, which lays down the schedule for the Qualifying Examination to be conducted between 14th and 19th December, 2024. As clarified by counsel for the Respondents, the BCI issues a fresh notification for the Qualifying Examination each year. Thus, the observations in ***Karan Dhananjaya***, predicated on the 2023 notification, cannot be extended to the present case, as they pertain to an entirely distinct regulatory framework.

13. Moreover, the Karnataka High Court's judgment primarily focused on the equivalence framework under the 2023 notification, which addressed scenarios involving variations in the number of years of legal education. The emphasis was on ensuring that foreign law degrees matched the duration of Indian legal education through bridge courses or direct qualification. The 2023 Notification provides for two scenarios– (i) where an Indian Citizen has done 12 + 3 years Law degree from a foreign University recognised by BCI; and (ii) where they have done 12 + 3 (graduation) + 3 years Law degree from a foreign University recognised by BCI. In the first scenario, one can make up for the deficient years by pursuing a 2-year bridge course

in India, while in the second scenario, they are eligible to directly appear for the Qualifying Examination without the bridge course. The 2023 Notification, therefore, bifurcates the scenarios into groups where it is necessary to undertake the bridge course to complete the requisite number of years of legal education. The 2023 Notification does not make a distinction between those who are required to appear for the Qualifying Examination and those who are exempt from it.

14. The issue in the instant case pertains to the mandatory requirement of clearing the Qualifying Examination, which serves as an assessment of substantive and procedural legal knowledge specifically needed to practice law in India. The Petitioner's reliance on ***Karan Dhananjaya***, therefore, does not advance her case and is inapplicable to the factual matrix of the present matter.

15. It is imperative to note that that the bridge course serves a distinct and essential purpose—it ensures equivalency in the duration of legal education to align it with the structure prescribed for Indian law degrees. However, achieving such equivalency does not obviate the necessity of demonstrating competency in substantive and procedural law subjects required for legal practice in India. The Qualifying Examination, as mandated under Rule 37 of the Bar Council of India Rules, fulfils this objective. The distinction between equivalency and qualification is both clear and consequential. While the bridge course remedies the deficit in the required number of years of legal education, the Qualifying Examination assesses the candidate's readiness to meet the professional standards of Indian legal practice. Though the Petitioner may have studied some of the subjects during the bridge course, the regulatory framework demands that her knowledge be tested through the Qualifying Examination. The successful completion of the

bridge course undoubtedly grants the Petitioner equivalency in educational terms; however, it does not dispense with the statutory requirement to appear for the Qualifying Examination. To exempt the Petitioner from this obligation would not only undermine the regulatory framework, but would also create an inconsistency in the application of Rule 37. Such an interpretation is untenable in law and cannot form the basis of the relief sought.

16. In view of the foregoing, the Court finds no merit in the argument that the Petitioner should be exempted from appearing for the Qualifying Examination, and her grievance does not warrant judicial interference. Accordingly, the present petition is disposed of along with pending application.

SANJEEV NARULA, J

NOVEMBER 28, 2024/ab