



A.F.R.

Reserved On : 31.07.2026

Delivered On : 07.08.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 17377 of 2026

Yogendra

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Jayhind Gaund, Kripa Shankar Yadav,
Mohd Aadil Raza, Pawan Kumar
Yadav, Praveen Tiwari, Satyvendra
Singh Yadav

Counsel for Opposite Party(s) : Ashok Kumar Tiwari, Sai Girdhar,
G.A.

Court No. - 66

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Shri K.K. Dwivedi, Senior Vice President of the Bar Association of Allahabad, Shri Ashok Kumar Tiwari, Standing Counsel for the Bar Council of Uttar Pradesh, Shri Sai Girdhar, Standing Counsel for the Bar Council of India as well as Sri D.P.S. Chauhan, learned AGA assisted by Ms Mayuri Mehrotra, learned State Law Officer for the State and perused the record.

2. Though, this bail application has already been disposed of vide order dated 06.07.2026, but on that date an issue arose, "whether counsel for the applicant, who graduated after the academic session 2009-10 but despite expiry of two years has not passed the AIB exam, could argue this case ?" Though this court permitted Shri Jaihind Gaund to argue this case as a one-time exception in exercise of its authority under section 32 of the Advocates Act, 1961 but the issue was yet to be decided. Therefore, this court kept this matter pending, and requested the Secretary, High Court Bar Association, Secretary, Advocates' Association, High Court, Allahabad, Bar Council of U.P. and Bar Council of India to assist the court to decide this issue.

3. This matter was partly heard on 21.07.2026. On that date, a further issue arose, “whether Rule 5 of the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 (in short ‘the Rules, 2015’) provides necessity of Certificate of practice to practice in law applied on the graduates who pass LL.B. degree in the academic session 2009-10 but could not qualify the AIB exam within two years ?” The matter was adjourned to enable learned counsel for BCI to obtain instructions and the matter was posted for today.

4. Today, the counsel for the BCI has submitted that Rule 5 of the Rules, 2015 regarding the necessary practice is applicable in cases where the question of verification of certified practices arises. It is further submitted that the law graduates who are subject to the All India Bar Examination Rules, 2010 passed the AIB exam and obtained COP from BCI, they shall be required to verify/renew their COP after five years and Rule 5 of the Rules, 2015. It is further submitted that Rule 9 of BCI, AIB Exam 2010 provides that no advocates, even though enrolled under Section 24 of the Advocates Act, 1961 shall be entitled to practice unless he/she qualified the AIB exam, but subsequently, after receiving representations from the several State Bar Council, a resolution was passed by the Bar Council of India on 12.04.2013, wherein it is resolved that a law graduate of academic session 2009-10 or thereafter would be entitled to provisionally enrol in the Bar Council of State for two years and for two years he/she is entitled to practice. However, after expiry of two years, if he/she could not pass AIB exam within two years, then his/her enrollment will automatically be cancelled and he/she will not be entitled to practice in any court of law as well as Tribunal.

5. It is further submitted that the Bar Council of India by resolution dated 31.01.2017 again clarified that if a person is a law graduate in the academic session of 2009-2010 or thereafter, he/she could not qualify the AIB exam within two years, then he may also appear in the AIB exam without any limitation on number of times till he/she clears such exam. It is further submitted that clarification

dated 17.05.2017 was again issued by the Bar Council of India, wherein it is mentioned that the date of declaration of result of AIB exam shall be treated as the date of qualifying the exam. It is further submitted that Rule 13 of the Rules, 2015 provides that after expiry of a period of five years from the date of issuance of certificate whether under AIB Rules 2010 or under Rule 13 of the Rules 2015, the advocate will be debarred from practising in any court of law. However, this disability will arise after publication of the list of non practicing advocates by the Bar Council of State under Rule 22.4 of the Rules, 2015.

6. Shri K.K. Dwivedi submitted that in view of the resolution dated 12.4.2013 of the Bar Council of India, the advocates who graduated in the academic session 2009-10 or thereafter and were granted the provisional enrollment by the Bar Council of U.P. can be enrolled as a member of the Bar Association, High Court, Allahabad. Still, they get voting rights after completion of three years. It is further submitted that the High Court issues provisional advocate rolls for two years to the advocates graduated in academic session 2009-10 or thereafter, if they qualify the AIB Exam within two years, then they are issued permanent advocate enrollment by the High Court. In case advocates could not qualify the AIB exam within two years of issuance of provisional enrollment, then their advocate roll may be cancelled by the High Court, after giving them general notice.

7. Sri Sarvesh Kumar Singh, Deputy Registrar, Enrollment of Advocates Section, High Court, has also apprised the court that immediately after expiry of provisional advocate roll, the High Court publishes the notice and updates the list accordingly and if the counsel does not submit results of qualifying the AIB exam, then their advocate roll would automatically be deemed to be terminated.

8. Sri Ashok Kumar Tiwari, counsel for Bar Council U.P., also submitted that as per the instructions, verification under Rule 5 of the Rules 2015 for renewal of COP is undergoing and the list of

non-practising advocates under Rule 20.4 of the Rules 2015 is yet to be published.

9. Sri Jaihind Gaund, who was the counsel for the applicant, submitted that he has passed the AIB exam on 18th of July, 2026 and the result thereof has also been produced before this Court. Therefore, as per Rule 11.1 of AIB Rules, 2010, he is entitled to practice as an advocate. It is further submitted by Sri Jaihind Gaund, that even after receiving the copy of result of qualifying AIB exam Bar Council of U.P., it takes time to issue permanent enrollment number. Therefore, direction may be issued to Bar Council of U.P. to issue permanent enrollment number to advocates as soon as it receives result card of AIB exam and enrollment number should be issued within a period of one week.

10. Sri D.P.S. Chauhan, learned AGA, also submitted that as per Rule 5 of the Rules, 2015, the advocate who does not have a valid certificate of practice is not entitled to practice in any court of law or any tribunal or person legally authorised to take evidence or before any authority or person before whom he/she is entitled to practice. It is also submitted that Section 2(a) of Bhartiya Sakshya Adhiniyam 2023 defines the court, which includes a revenue court.

11. After considering the submission of learned counsel for the parties, the following questions arise for determination:

(I) Whether the law students who graduated during the academic session 2009-10 or thereafter and enrolled as an advocate u/s 24 of the Advocates Act, 1961 would be entitled to continue practice without qualifying the All India Bar Examination?

(II) If an enrolled advocates did not verify their certificate of practice after expiry of 5 years from the date of its issuance, would they be entitled to practice in any court of law?

12. The legal profession is one of the respectable professions as it plays a critical role in protecting and promoting the Civil and constitutional rights of the people. The Bar and the Bench are two

wheels of a chariot of justice, and one cannot function without the other. Therefore, to regulate the procedure of admission of a person as an advocate, lay down professional ethics among advocates, and promote legal education, the Advocates Act, 1961, established the Bar Council of India as well as Bar Councils of States. The Advocates Act also gives power to the Bar Council of India and Bar Councils of States and High Courts to frame rules laying down the conditions, subject to which an advocate shall be permitted to practice in any court of law.

13. A law graduate who has completed the age of 21 years is though entitled to be admitted as an advocate on the State roll u/s 24 of the Advocates Act, 1961. Still, such admission is subject to the other provision of the Advocates Act, 1961 as well as Rules framed thereunder which includes Rules framed by Bar Council of India in exercise of its power under Section 49(1)(ad), (ag) and (ah), Rules framed by the High Court u/s 34 and Rules framed by State Bar Council Section 28 of the Advocate Act. If an advocate has entered as an advocate on fulfilment of all conditions, then u/s 30 of the Advocate Act, he shall be entitled to practice in all Courts, Tribunals, or any authority before whom an advocate is entitled to practice. For reference, Section 24 of the Advocates Act, 1961 is being quoted as under:

“24. Persons who may be admitted as advocates on a State roll.—

(1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfills the following conditions, namely:—

(a) he is a citizen of India:

Provided that subject to the other provisions contained in this Act, a national of any other country may be admitted as an advocate on a State roll, if citizens of India, duly qualified, are permitted to practise law in that other country;

(b) he has completed the age of twenty-one years;

(c) he has obtained a degree in law—

(i) before the 12th day of March, 1967, from any University in the territory of India; or

(ii) before the 15th day of August, 1947, from any University in any area which was comprised before that date within India as defined by the Government of India Act, 1935; or

(iii) after the 12th day of March, 1967, save as provided in sub-clause (iii-a), after undergoing a three-year course of study in law from any University in India which is recognised for the purposes of this Act by the Bar Council of India; or

(iii-a) after undergoing a course of study in law, the duration of which is not less than two academic years commencing from the academic year 1967-68, or any earlier academic year from any University in India which is recognised for the purposes of this Act by the Bar Council of India; or

(iv) in any other case, from any University outside the territory of India, if the degree is recognised for the purposes of this Act by the Bar Council of India; or

he is a barrister and is called to the Bar on or before the 31st day of December, 1976; or has passed the articled clerk's examination or any other examination specified by the High Court at Bombay or Calcutta for enrollment as an attorney of that High Court; or has obtained such other foreign qualification in law as is recognised by the Bar Council of India for the purpose of admission as an advocate under this Act;

(d) [* * *]

(e) he fulfils such other conditions as may be specified in the rules made by the State Bar Council under this Chapter;

(f) he has paid, in respect of the enrollment, stamp duty, if any, chargeable under the Indian Stamp Act, 1899 (2 of 1899), and an enrollment fee payable to the State Bar Council of six hundred rupees and to the Bar Council of India, one hundred and fifty rupees by way of a bank draft drawn in favour of that Council:

Provided that where such person is a member of the Scheduled Castes or the Scheduled Tribes and produces a certificate to that effect from such authority as may be prescribed, the enrollment fee payable by him to the State Bar Council shall be one hundred rupees and to the Bar Council of India, twenty-five rupees.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have obtained a degree in law from a University in India on the date on which the results of the examination for that degree are published by the University on its notice-board or otherwise declaring him to have passed that examination.

(2) Notwithstanding anything contained in sub-section (1), a vakil or a pleader who is a law graduate] may be admitted as an advocate on a State roll if he—

(a) makes an application for such enrollment in accordance with the provisions of this Act, not later than two years from the appointed day; and

(b) fulfills the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1).

(3) Notwithstanding anything contained in sub-section (1), a person who —

(a) has, for at least three years, been a vakil or a pleader or a mukhtar, or was entitled at any time to be enrolled under any law as an advocate of a High Court (including a High Court of a former Part B State) or of a Court of Judicial Commissioner in any Union territory; or

(aa) before the 1st day of December, 1961, was entitled otherwise than as an advocate to practise the profession of law (whether by way of pleading or acting or both) by virtue of the provisions of any law, or who would have been so entitled had he not been in public service on the said date; or

(b) [* *]*

(c) before the 1st day of April, 1937, has been an advocate of any High Court in any area which was comprised within Burma as defined in the Government of India Act, 1935; or

(d) is entitled to be enrolled as an advocate under any rule made by the Bar Council of India in this behalf,

may be admitted as an advocate on a State roll if he—

(i) makes an application for such enrollment in accordance with the provisions of this Act; and

(ii) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1).”

14. From the perusal of explanation of Section 24(1) from the Advocates Act, 1961, it is clear that a person shall be deemed to have obtained degree of law from University in India on the date on which result of the examination for that degree is published by the University or declared him to have passed the examination irrespective of the date of issuance of marksheet or degree.

15. The Bar Council of India, in exercise of its power u/s 49(1)(a)(h) of the Advocates Act, 1961 framed All India Bar Examination Rules 2010 through its resolution dated 30.04.2010 by inserting Rules 9, 10 and 11 in Part VI, Chapter III of Bar Council of India Rules – Conditions for Right to Practice. As per Rule 9 of All India Bar Examination Rules, 2010, all law students graduating during the academic session 2009-10 or onwards and enrolled as an advocate u/s 24 of the Advocates Act, 1961 shall

not be entitled to practice unless he/she qualifies the All India Bar Examination conducted by the Bar Council of India. Therefore, even if a law graduate is enrolled u/s 24 of the Advocates Act, he/she is not entitled to practice in court unless he/she qualifies the All India Bar Examination if that law graduate obtained his law degree during the academic session 2009-10 (1st July, 2009 to 30th June, 2010 and thereafter). As per Rule 11 of All India Bar Examination Rules, 2010, a certificate of practice shall be issued by the Bar Council of India to successful advocates within 30 days of declaration of result, and that certificate of practice issued by the Bar Council of India gives the right to practice as an advocate in any court of law in India during its validity, i.e. 5 years. Rules 9, 10 and 11 of All India Bar Examination Rules, 2010 are being quoted as under:

“9. No advocate enrolled under Section 24 of the Advocates Act, 1961 shall be entitled to practice under Chapter IV of the Advocates Act, 1961, unless such advocate successfully passes the All India Bar Examination conducted by the Bar Council of India. It is clarified that the Bar Examination shall be mandatory for all law students graduating from academic year 2009-2010 and onwards and enrolled as advocates under Section 24 of the Advocates Act, 1961.

The All India Bar Examination

10. (1) The All India Bar Examination shall be conducted by the Bar Council of India.

(a) The Bar Examination shall be held at least twice each year in such month and such places that the Bar Council of India may determine from time to time.

(b) The Bar Examination shall test advocates in such substantive and procedural law areas as the Bar Council of India may determine from time to time.

(c) Such substantive/procedural law areas and syllabi shall be published by the Bar Council of India at least three months prior to the scheduled date of examination.

(d) The percentage of marks required to pass the Bar Examination shall be determined by the Bar Council of India.

(e) An unsuccessful advocate may appear again for the Bar Examination, without any limit on the number of attempts.

(f) The Bar Council of India, through a committee of experts, shall determine the syllabi, recommended readings, appointment of paper setters, moderators,

evaluators, model answers, examination hall rules and other related matters.

(g) The Bar Council of India shall determine the manner and format of application for the examination.

(h) Upon successfully passing the Bar Examination, the advocate shall be entitled to a Certificate of Practice.

Application for Certificate of Practice

11. (1) The Certificate of Practice shall be issued by the Bar Council of India to the address of the successful advocate within 30 days of the date of declaration of results.

(2) The Certificate of Practice shall be issued by the Bar Council of India under the signature of the Chairman, Bar Council of India."

16. As Rule 9 of All India Bar Examination Rules, 2010 does not permit the law graduates of academic session 2009-10 or thereafter to practice in courts despite their enrollment before the State Bar Council, then several bar councils objected and made representation before the Bar Council of India. Thereafter, the Bar Council of India passed resolution dated 12.04.2013 permitting the Bar Council of State to enroll the law graduates of the academic session 2009-10 provisionally by issuing them provisional certificate of enrollment for a period of two years with further rider that those provisionally enrolled advocates, must qualifies All India Bar Examination within 2 years failing which they will ceased to be an advocate till they passed AIBE. It was also mentioned in the resolution dated 12.04.2013 that these provisionally enrolled advocates will not get benefit of various welfare schemes of Bar Council or Bar Association and in case they are admitted as a member of Bar Association, they will not have voting right. For reference, resolution dated 12.04.2013 of the Bar Council of India is being quoted as under:

भारतीय विधिज्ञ परिषद्

BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, New Delhi - 110 002

BCI:D: 15/6 /STBC CIR. NO. 4/2013(COUNCIL)

12.4.2013

TO

All The Secretaries
Of All The State Bar Councils

Sirs,

The All India Bar Examination Committee of Bar Council of India at its meeting held on 26th August, 2012 passed the following Resolution:

"The candidates who are enrolled by the concerned State Bar Councils but are yet to appear and pass the All India Bar Exam (AIBE), it would be better if the concerned State Bar Councils enroll them provisionally and they are issued Provisional Certificates of enrollments Meaning thereby, the certificate issued to such candidates should bear the word "Provisional" (valid upto) in bold letters. The ID Cards issued to them by the State Bar Councils should also bear the word "Provisional" (Valid Upto.....) in same fashion. The candidates who do not pass AIBE shall not get benefits of the various Welfare Schemes of the State Bar Councils or the Bar Associations. The concerned State Bar Council should intimate this fact to all the Bar Associations. Those candidates should not get the right of voting and if any, Association decides to admit them as its member, their membership should be totally provisional with no voting-right. It is also resolved that just below the word provisional in the certificates or in the ID Cards, it should be made clear that the certificate is valid upto (the period is to be calculated for two years from the date of enrolment and the date after completion of two years should be mentioned after the word upto or till they pass the AIBE (whichever is earlier). It is also made clear that those who do not pass the AIBE within the said period, will not be given further such provisional certificates till they pass the AIBE and will be ceased to be the advocate till they pass AIBE. After getting success in AIBE, the State Bar Councils shall issue certificates of enrollment and the candidates shall return their provisional certificates to State Bar Councils, the State Bar Councils shall issue certificate/licence only after verifying the Certificate of Practice (COP) issued by Bar Council of India duly signed by Chairman, Bar Council of India and Chairman of concerned State Bar Councils."

17. Thereafter, Bar Council of India again clarified vide its letter dated 31.01.2017, that **provisionally enrolled advocates who could not qualify All India Bar Examination, they shall only be barred from practice as an advocate after 2 years from the date of their provisional enrollment** but they shall not be barred in appearing in All India Bar Examination even after expiry of 2 years of their provisional enrollment.

18. The letter of Bar Council of India dated 31.01.2017 is being quoted as under:

भारतीय विधिज्ञ परिषद्

BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, New Delhi-110 002

*BCI:D: 564/2017 [AIBE/Council]**31.1.2017*

*To
The Secretaries
of all the State Bar Councils*

Dear Secretaries,

The office of the Bar Council of India is receiving various queries from different State Bar Councils, seeking clarification as to whether an advocate who has been enrolled for more than two years on State Bar Council Roll, can be allowed to appear in All India Bar Examination X or not.

It is hereby reiterated and clarified any Advocate who has graduated after 1 July, 2010 can appear in All India Bar Examination for as many times as it requires him or her to pass such exam irrespective of the fact that he or she has been enrolled for more than two years as an Advocate on a State Bar Council Roll. The concerned Advocate is only barred from practicing as an advocate, if even after two years of being enrolled as an Advocate on a State Bar Council Roll, he or she is unable to clear/pass the All India Bar Examination.

Thus an Advocate enrolled on a State Roll is not debarred from appearing in the All India Bar Examination and as per Resolution No. 73/2010 dated 30th April, 2010, passed by the General Council of the Bar Council an unsuccessful candidate may appear in the All India Bar Examination, without any limit on the number of attempts, till he or she clears/passes such exam.

The Bar Council of India is also receiving queries regarding the fee being charged in All India Bar Examination-X. It is reiterated and clarified that for All India Bar Examination-X, a fee of Rs. 2500/- is being charged from SC/ST candidates and Rs. 3500/- is being charged from other category candidates.

Thanking you,

SECRETARY

19. The Bar Council of India to further regulate and remove the non-practicing advocate from the State roll in exercise of the power under Section 49(1)(ag), 49(a)(h) and 49(i) of Advocates Act, 1961 also framed the Rules, 2015. The basic purpose of the Rules, 2015 is to protect the legal profession from fake practitioners, identify non-practising advocates, and debar such advocates from contesting elections of the Bar Association or the Bar Council.

20. Rule 5 of the Rules, 2015 made it mandatory to hold a valid and verified certificate of practice by an advocate for getting entitlement to practice law. This certificate of practice may be

issued either under the All India Bar Examination Rules, 2010 or Rule 13 of the Rules, 2015, to already practising advocate. Rule 5A of the Rules, 2015, however, exempts the designated senior advocates as well as advocates on record in the Supreme Court of India from such verification. For reference, Rule 5 of the Rules, 2015 is being quoted as under:

“Rule 5. Necessity of “Certificate of Practice”

An advocate shall not be entitled to practice law unless he holds a valid and verified certificate of practice issued either under All India Bar Examination Rules or under these Rules. This disability to practice law would come into force only when the name/names of such advocate/s is/are published under Rule 20.4.”

21. Similarly, Rule 13 of the Rules, 2015 prescribes that an application for verification of certificate of practice is liable to be dismissed only in case the advocate leaves the law practice and they have no bona fide intent and interest in continuing it in future. Then, such advocate should be treated as a non-practising advocate, and the list of such non-practising advocates shall be published by the State Bar Council as per Rule 20.4 of the Rules, 2015. However, the proviso of Rule 5 further makes it clear that disability to practice due to non-verification of certificate of practice shall come into force only after publication of the list as per Rule 20.4 of the Rules, 2015. The learned counsel for the Bar Council has informed that the Bar Council of U.P. is in the process of publishing the list of non-practising advocates as per Rule 20.4, and the U.P. Bar Council shall publish the same after conclusion of the ongoing election of its members.

22. The issue of power of the Bar Council of India regarding framing Rules regulating the enrollment of advocates u/s 24 of the Advocates Act, 1961 through All India Bar Examination Rules, 2010 and pre enrollment training came into consideration before the Hon’ble Apex Court in the case of **Bar Council of India Vs. Bonnie Foi Law College** reported in **2023 (7) SCC 756**, and the Hon’ble Apex Court upheld the power of the Bar Council of India to frame Rules for conducting pre-enrollment training course or examination and overruled the earlier judgement of the Apex Court

in the case of **V. Sudeer Vs. Bar Council of India and Another** reported in **1999 (3) SCC 176**. Paragraph nos.41 and 42 of **Bonnie Foi's case (supra)** are being quoted as under:

“41. In addition, the learned Judges in V. Sudeer [V. Sudeer v. Bar Council of India, (1999) 3 SCC 176] opined that if such a power has to be conferred, it should be conferred legislatively. While in principle, there can be no disagreement with the broad proposition, the issue is whether such a power is already existing with the Bar Council of India under the statutory provisions. The functions of the Bar Council of India, as specified under Section 7, inter alia prescribe an exercise of general supervision and control over the State Bar Councils under clause (g) of sub-section (1) of Section 7. Further, under clause (l), the Bar Council of India has the power to perform all other functions conferred on it by or under the said Act and under clause (m) to do all other things necessary for discharging the aforesaid functions. The powers are, thus, wide and extensive as conferred by the legislature. Thus, when under Section 24(1), the Bar Council of India has the statutory power of prescribing rules subject to which a person may be treated as qualified to be admitted as an advocate in the State Roll, then we believe that the Bar Council of India is not devoid of its jurisdiction in undertaking a pre-enrolment training course or examination prescribed by the Bar Council of India.

42. In case of any subsisting doubt, we must refer to Section 49(1)(ag) of the said Act, which while dealing with the general powers of the Bar Council of to make rules, specifically stipulates that the class or category of person entitled to be enrolled as advocates, is an aspect for which all powers have been conferred on the Bar Council of India. Thus, the provision for an examination for enrolment of advocates by the Bar Council of India can hardly be doubted. We had specified at the inception itself that quality control of entry into the Bar is the need of the hour.”

23. The Apex Court in the case of **Bonnie Foi's case (supra)** observed that during the period between the date of passing the All India Bar Examination and the date of enrollment, any law graduate, who is required to appear in AIBE exam should be able to do tasks allied to the legal profession other than acting or pleading before the Court like assisting senior advocate in chambers. Still, the Bar Council of India, by resolution dated 12.04.2013, permitted such a law graduate to be entered provisionally for two years and also permitted to practice in the court without amending Rule 9 of All India Bar Examination Rules, 2010. As the Bar Council is the final authority to decide whether to permit or not to permit the provisionally enrolled advocate, therefore, this court cannot take a different view, even though the required formality was not completed by the Bar Council of India by making the necessary amendment under Rule 9 of the AIBE Rules, 2010.

24. In **Bonnie Foi's case (supra)**, the Hon'ble Apex Court has also observed that if an enrolled advocate who takes up employment in a non-legal context for a substantial length of time, like 5 years or more, would be deemed to be a new enrollee, they should be required to take the All India Bar Examination once more to regain the qualification. Still, unfortunately, the Bar Council of India appears to have ignored this direction. Paragraph no.52 of **Bonnie Foi's case (supra)** is being quoted as under:

“52. The learned Amicus Curiae also sought to flag the issue of persons, who may take up other jobs and may want to enrol themselves as advocates later at some stage. There may also be persons who despite being enrolled at the Bar, decide to take another job and come back into the profession after a considerable period of time, at times even post retirement. It is in that context that the learned Amicus Curiae has suggested that the rule-making power under Section 49(1)(ah) of the said Act could be invoked requiring an examination for the advocates who come back into the practice after a substantial break from practice. We are inclined to accept the suggestion in principle that appropriate rules can be framed laying down that an enrolled advocate who takes up an employment in a non-legal context for a substantial length of time (say for five years) would be deemed to be a new enrollee and in order to regain the qualification, that person would be required to take the All India Bar Examination once more. We believe that the requirements of an active legal practice and that of an unconnected job are different. Even if a person has a Law degree or enrolment, it does not mean that his ability to assist the court would continue with him if there are long hiatus period of time in some unconnected job. He would have to hone and test his skills afresh. Thus, if there is a substantial break, norms should be specified by the Bar Council of India that to regain that qualification, the person would be subject to re-examination and would be required to take the All India Bar Examination once more.”

25. The Allahabad High Court has also framed Rules in exercise of power u/s 34 of the Advocates Act, 1961 read with Article 225 of the Constitution of India by inserting Rules 3 and 3A in Chapter XXIV of Allahabad High Court Rules, 1952 to fix accountability on advocates practising before the High Court and also in regulating the functioning of the High Court by making it compulsory for an advocate to be on the roll of advocate of the High Court for filing Vakalatnama in the cases or memo of appearance in the cases.

26. Rules 3 and 3A of Chapter XXIV of Allahabad High Court Rules, 1952 are being quoted as under :

“3. An Advocate who is not on the Roll of Advocates :- An advocate who is not on the Roll of Advocate of the Bar Council of the State in which the Court is situated, shall not appear, act or plead in such Court, unless he files an appointment along with

an advocate who is on the Roll of such State Bar Council and who is ordinarily practicing in such Court.

In cases in which a party is represented by more than one advocate, it shall be necessary for all of them to file a joint appointment or for each of them to file a separate one.

3-A.(i) Unless the Court grants leave, an Advocate who is not on the roll of Advocates in the High Court at Allahabad or Lucknow shall not be allowed to appear, act or plead in the High Court at Allahabad or Lucknow as the case might be unless he files appointment along with an Advocate who is on such roll for Allahabad Cases at Allahabad and for Lucknow Cases at Lucknow.

(ii) The High Court shall prepare a Roll of Advocates in Parts 'A' and 'B' of those who ordinarily practice in the High Court, Part 'A' for Allahabad and Part 'B' for Lucknow.

(iii) The roll of Advocates shall bear in regard to each advocate entered, his full name, father's name, passport size colored photograph, enrollment number, date of enrollment, complete postal address both of residence and office which shall be (Deleted) of Allahabad or Lucknow as the case may be.

(iv) The rolls shall be prepared and revised periodically in the manner and under the authority as may be prescribed by the Chief Justice.

(v) This Rule 3-A shall come into force after notification by the Chief Justice that both the rolls for Allahabad and Lucknow in Parts 'A' and 'B' are complete."

27. The vires of the above Rules 3 and 3A of the Allahabad High Court Rules, 1952, also came for consideration before the Hon'ble Apex Court in the case of **Jamshed Ansari Vs. High Court of Judicature at Allahabad & Ors.** reported in **(2016) 10 SCC 554** and the Apex Court upheld the validity of the same on the ground that the right to practice u/s 24 of the Advocates Act, 1961 is subject to rules framed by the High Court u/s 34 of Advocates Act, 1961 as well as rules framed by the Bar Council of India u/s 49 of the Advocates Act, 1961. As on date, Advocate Roll Section of Allahabad High Court has been maintaining the roll of advocates.

28. During hearing of this case, Sri Sarvesh Kumar Singh, Deputy Registrar, Advocate Roll Section, High Court Allahabad has informed that the High Court issues a provisional advocate roll to the advocates who are provisionally admitted as an advocate under Rule 9 of All India Bar Examination Rule 2010 for a period of 2 years. As soon as 2 years expire, the concerned section publishes a general notice for all these advocates to submit proof

of qualifying the All India Bar Exam. In case they fail to submit any proof of qualifying the All India Bar Exam within the last 2 years, these advocates may be struck off from the advocate roll maintained by the High Court. They would not be entitled to file Vakalatnama in the cases in the High Court, Allahabad.

29. From the above analysis, **answer to question no. I is as follows :**

29.1. The advocates who obtained a law degree during academic session 2009-10 (1st June 2009 to 30th June, 2010) or thereafter, would be entitled to practice based on a provisional enrollment certificate issued by the Bar Council of U.P. for a period of 2 years in all courts and tribunals established by Government. However, if they fail to qualify the AIB exam within two years, then they will not be entitled to practice in any court, any Tribunal or any other authority.

29.2. However, for practising in High Court such advocates having a provisional enrollment certificate issued by Bar Council of U.P. must also have provisional advocate roll of High Court, Allahabad or Lucknow because for the appearance before the High Court, advocate must have advocate roll of High Court as required by Rule 3 of Chapter XXIV of Allahabad High Court Rules, 1952.

29.3. However, it is further clarified that advocates who are having provisional enrollment certificate of the Bar Council of U.P. but do not have an advocate roll of the High Court can appear in High Court for a period of 2 years along with advocates who are on the advocate roll of High Court, Allahabad or Lucknow.

30. From the above analysis, **the answer to question no.II is as follows :**

30.1. In view of the explanation of Rule 5 of the Rules, 2015, even after expiry of 5 years from the date of issuance of certificate of practice, an advocate would be entitled to

continue practice even if a verified or renewed certificate of practice is not issued till the publication of the list of non-practising advocates by Bar Council of U.P. under Rule 20.4 of the Rules, 2015.

31. Before closing the judgement, it would be appropriate to define to the Court where an advocate has the right to practice.

32. As per Section 2(1)(a) of Bharatiya Sakshya Adhiniyam, 2023, courts include all Judges and Magistrates, and all persons except arbitrators legally authorised to take evidence. Therefore, apart from civil courts, criminal courts, and Tribunals constituted under law, revenue courts are also included within the definition of courts, as revenue courts are also legally authorised to take evidence.

33. It is further observed that an advocate who has graduated in the academic session 2009-10 (1st July, 2009 to 30th June, 2010) would not be entitled to practice civil, criminal or revenue court (from the court of Tehsildar up to the Board of Revenue), if they fail to qualify the AIB exam within 2 years of issuance of provisional enrollment and if such advocates appear before any court or Tribunal, then the Presiding Officer may refuse to hear them or honour their Vakalatnama on behalf of any party. Such advocates would also be liable to be prosecuted u/s 45 of the Advocates Act, 1961.

34. The Advocate Roll Section of the High Court, Allahabad is also directed to strike off or suspend the names of advocates having provisional enrollment under Rule 9 of AIB Rules, 2010, from the advocate roll of High Court, Allahabad /Lucknow, if they could not qualify the AIB exam within 2 years, after publication of notice unless they qualify the AIB exam.

35. The Chairman as well as Secretary of Bar Council of U.P., are directed to issue enrollment number to the advocates who qualifies AIB exam within a period of four weeks from the date of receiving result card of AIB exam so that their precious time may not be wasted.

36. Director General of Police, U.P. is further directed to issue necessary directions to all District Police Chiefs to complete the police verification of Law graduates intending to enroll as Advocates within a period of two weeks from the date of receiving the verification form from the Bar Council of U.P.

37. **Registrar (Compliance)** is also directed to send a copy of this order to the Chief Secretary, U.P., Lucknow to circulate the same to all Revenue Courts and Tribunals constituted by the State Government.

38. **Registrar (Compliance)** is also directed to send a copy of this order to the **Secretary, Bar Council, U.P.** and the **Director General of Police, U.P.**

39. Let a copy of this order be sent to the In-charge, Advocate Roll Section, High Court, Allahabad.

40. Let a copy of this order also be sent to the Chairman, Bar Council of India for considering the direction of the Apex Court in the case of **Bonnie Foi's case (supra)** as mentioned in paragraph no.24 of this judgement.

41. Let the application be consigned to records.

(Arun Kumar Singh Deshwal,J.)

August 7, 2026
CS/S.C.