



\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 9th September, 2024

+

W.P.(CRL) 793/2017, CRL.M.A. 13198/2017, 14493/2017, 15145/2017, 16619/2017, 16639/2017, 3556/2018, 4559/2018, 8441/2018, 34126/2019, 4524/2020 & 8850/2024

COURTS ON ITS OWN MOTION IN RE: SUICIDE COMMITTED
BY SUSHANT ROHILLA, LAW STUDENT OF
I.P. UNIVERSITY

.....Petitioner

Through: Mr. Dayan Krishnan, Sr Adv. Amicus
Curiae with Mr. Sukrit Seth, Ms.
Aakashi Lodha & Mr. Sanjeevi
Seshadri, Advs. (M: 9871167778).

versus

.....

.....Respondent

Through: Mr. Chetan Sharma, ASG, Mr.
Kirtiman Singh, CGSC with Mr. Amit
Gupta, Mr. Vinay Yadav Mr. Saurabh
Tripathi Mr. Vikramaditya Singh and
Mr. Shubham Sharma, Advs. for
Union of India (M: 9810045281).
Ms. Nandita Rao, ASC (Crl.) for
GNCTD.
Mr. T. Singhdev, Mr. Abhijit
Chakravarty, Mr. Tanishq Srivastava,
Mr. Sourabh Kumar, Mr. Bhanu
Gulati, Mr. Aabhaas Sukhramani and
Ms. Anum Hussain, Advs for National
Medical Commission and Dental
Council of India (M: 9044153267).
Mr. Anil Soni, CGSC with Mr.
Devvrat Yadav, Advocate for AICTE.
Mrs. Avnish Ahlawat, SC NSUT with
Mr. N.K. Singh, Ms. Lavanya
Kaushik, Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advocates.
Mr. Pritish, Standing Counsel for



Jamia Millia Islamia (M: 9871878690).

Mr. Raajan Chawla & Gautam Chauhan Adv. for R-1 (M: 9871733347).

Mr. Honey Khanna & Mr. Shyam Singh, Adv. for R-4 and 5 (M: 9899649343).

Mr. Atul Kumar, Ms. Sweety Singh Ms. Archana Kumari, Mr. Harsh, Advocates for AIIMS (M: 9818385222).

Mr. Ankit Jain, Advocate for Indian Law Institute.

Ms. Monika Arora Advocate for R-13-IIMC (M: 9810246300).

Mr. Arjun Mitra, Adv. for R-14 & 15. Mr. Ankit Jain and Ms. Apurva Tyagi, Advocates for Indian Law Institute (M: 9311241555).

Ms Bharathi Raju, Advocate for R-16 (M: 9868895906).

Mr. Siddharth Panda and Mr. Ritank Kumar Advocates for R-19 (M: 9891488088).

Mr. Mohinder JS Rupal Adv. for University of Delhi (M: 9811151216).

Mr. Hardik Rupal, Adv. for Jamia Hamdard University (M: 9811316090).

Mr. Neeraj Verma Advocate for R-24 (M: 9810762420).

Mr Joby P Varghese, Advocate.

Mr. Amitesh Kumar, Ms. Priti Kumari and Ms. Mrinaal Kishor, Advocates for R-27 (M: 7503397704).

Mr. Amitesh Kumar, Ms. Priti Kumari and Mrinal Kishor, Advocates for R-



28 (M: 7503397704).

Mr. Vibhakar Mishra, Advocate for Shri Lal Bahadur Sashtri University (M: 9810092597).

Mr. Ankit Jain and Ms. Divyanshu Rathi, Advs. for ILI (M: 8396996188).

Mr. Raajan Chawla and Ms. Yashi Singh, Advs. for Amity law school.

Ms. Pragya Parijai Singh and Mr. Lakshay Saini, Advs. for R-32.

Ms. Anju Bhushan Gupta, Mr. Aditya Goel and Mr. Sanjay Gupta, Advs. for R-33.

Mr. Yashvardhan, Ms. Kritika Nagpal, Mr. Gyanendra Shukla and Mr. Pranav Das, Advocates for DPSRU.

Mr. Keshav Datta, Advocate, Intervener (M: 9871919591).

Mr. Vibhakar Mishra, Advocate for Lal Bahadur Central Sanskrit University (M: 9810092597).

Mr. Preet Pal Singh, Mrs. Tanupreet Kaur, Ms. Simrat Kaur and Ms. Akanksha Singh, Advocates for Bar Council of India (M: 9958555055).

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CRL.M.A. 16639/2017, CRL.M.A. 3556/2018 & CRL.M.A. 8850/2024

2. These are applications seeking deletion of Respondent Nos. 4 and 5 from the array of parties. Respondent No. 4 is an ex-Director of Amity Law School and Respondent No.5 is an ex-Professor. These applications shall be taken up at the final stage of hearing in view of the orders passed on 12th



January, 2018 and 23rd February, 2018.

3. List on 14th October, 2024.

CRL.M.A. 4524/2020 (for recusal)

4. The prayer in this application is for recusal of a particular Bench of this Court. The same is infructuous and is disposed of.

CRL.M.A. 8441/2018 (for additional documents)

5. This application has been filed on behalf of Respondent No.1 to bring additional documents on record. Considering the nature of the documents, they are taken on record, while leaving open any objections which the parties may have. If parties wish to file any rebuttal documents, they may do so by the next date.

6. Application is disposed of.

CRL.M.A. 34126/2019 (to place on record written submissions)

7. This application has been filed on behalf of intervenor- Ms. Mehak Rohilla - the sister of the deceased who wishes to assist the Court by filing written submissions. Without going into the allegations, the application is allowed and the written submissions are taken on record. Contentions made therein may be dealt with by Respondent No.1 in the arguments or in its written submissions.

8. Application is disposed of, accordingly.

CRL.M.A. 4559/2018 (for taking certain documents on record)

9. This application has been filed by Ms. Mehak Rohilla seeking to place additional documents on record. The same are taken on record subject to any rebuttal documents which any of the other parties wish to file.

10. Application is disposed of.

CRL.M.A. 16619/2017 & CRL.M.A. 15145/2017 (for directions)



11. The present applications have been filed by Amity Law School, Delhi - Respondent No.1 seeking clarification and directions as per prayers therein. A perusal of the prayers would show that these are arguments which Amity Law School wishes to make before this Court. The Respondent No.1 is accordingly permitted to make all these submissions at the time of final hearing of the present writ petition.

12. Applications are disposed of.

CRL.M.A. 14493/2017 (for impleadment)

13. This is an application under Order I Rule 10 CPC read with Article 226 of the Constitution of India seeking impleadment of the Bar Council of India. The Bar Council of India has been impleaded as Respondent No.37.

14. University Grants Commission (UGC) is also impleaded as Respondent No. 36 in this matter.

15. Application is accordingly disposed of.

W.P.(CRL) 793/2017 & CRL.M.A. 13198/2017 (u/S 340 Cr.P.C.)

16. *Vide* the previous order dated 21st August, 2024, this Court had taken note of the unfortunate event that had led to the present writ petition being instituted. As can be seen from the previous order dated 21st August, 2014, the matter had arisen due to the unfortunate suicide of a law student of Amity Law School, Delhi, in which the Hon'ble Supreme Court had taken cognizance of a letter petition, by a friend, and had finally *vide* order dated 06th March, 2017, transferred the matter to this Court.

17. Various Educational Institutions, Organizations, Regulatory Authorities etc., have all been impleaded in this matter.

18. The Court had, on 21st August 2024, after hearing the *Id. Amicus Curie* -Mr. Dayan Krishnan Sr. Adv, and various *Id. Counsels*, who were appearing,



recorded that the crux of the issue is whether attendance requirements ought to be mandatory in Institutions offering Under Graduate as also Post Graduate programs. The various factors, that have to be considered while discussing attendance norms, were also briefly outlined in the said order. Directions were given for impleadment of various regulatory bodies including the Secretary, Department of Higher Education, Government of India through the Id. Standing Counsel for the Union of India. The Id. ASG was also requested to assist the Court *vide* the said order.

19. Today, the Bar Council of India ('BCI') has filed its affidavit and made its submissions through Mr. Preet Pal Singh, Id. Counsel. The BCI has taken a position that in terms of the Bar Council of India Rules of Legal Education, 2008 there is a mandatory attendance which is prescribed under Rule 12 of the aforesaid Rules. In the affidavit filed by BCI, it is also submitted that under Rule 2(xvi) of the aforesaid Rules, a Legal Education Committee ('LEC') has to be constituted by the BCI and the said Committee prescribes the norms to be followed at law colleges. The currently prescribed mandatory attendance is 70%, as stated in the affidavit filed by the BCI and the same reproduced below:

"4. I say on oath that with regard to taking a sympathetic view with respect to attendance of LL.B students, a letter No.BCI:D 7049/ 2016 (LE) dated 17.12.2016, was issued by the Secretary, based on the office order of Hon'ble Chairman, Bar Council of India dated 17.12.2016, which was subsequently ratified by General Council of the Bar Council of India on 27.12.2016, was issued only in the mode of forwarding a request letter to Dean, Faculty of Law, University of Delhi to consider sympathetically the plea of a few hundred students pursuing LL.B under Delhi University having a shortfall



of attendance in a particular semester and allow them to sit for their LL.B examinations due from 20th December, 2016 on their undertaking to complete the shortfall in attendance in the next semester, failing which they were not be allowed to take the next semester exams. The proviso to Rule 12 of Legal Education Rules of Bar Council of India provides that a list of such students so allowed to take the exams with reasons to be recorded had also to be forwarded to the Bar Council of India, which was never done by the dean in such a case and the letter was treated as a direction. Rule 12 of Legal Education Rules, 2008 provides for a minimum of 70% attendance and in exceptional cases discretion has been given to the Dean of the University or to the Principal of the Centre of Legal Education as the case may be to reduce the attendance criteria to a minimum of 65% attendance in a subject, provided the overall attendance is 70%. The copy of the said letter is Annexure-A to the present affidavit, which is self explanatory.”

20. It is also emphasized by Id. Counsel for BCI that in other countries of the world as well, there are mandatory attendance norms which are fixed and in view of the requirements of the profession, such norms ought to be followed. For example, the American Bar Association is stated to be having mandatory attendance policies for students and such rules are prevalent in the UK and Australia, as well, as per the BCI.

21. However, the BCI has finally taken the position that while sanctity and rigours of the legal education need to be maintained, the pressures on students including their mental health etc., is also of utmost importance. The BCI is willing to deliberate any changes that may be required in the attendance norms, after placing the same before the Legal Education Committee.

22. The Id. ASG -Mr. Chetan Sharma, appearing for the Union of India



submits that insofar as attendance norms are concerned, large scale consultation would be required with various stakeholders including the regulatory bodies such as University Grants Commission ('UGC'), All India Council for Technical Education ('AICTE'), National Medical Commission ('NMC'), Institute of Clinical Research ('ICR'), BCI as also the National Council for Teacher's Education ('NCTE') and National Council for Vocational Education and Training ('NCVET'). He further submits that teachers and students would also have to be consulted in this process.

23. Ld. Counsel for UGC also submits that under the New Education Policy, there are various relaxations that have been prescribed, however he would like to file a detailed affidavit in this regard.

24. Insofar as the NMC is concerned, ld. Counsel -Mr. Tanoodbhav Singh Dev submits that for Under Graduate medical courses, the attendance norms require 75 % attendance and for Post Graduate courses 80 % attendance is a mandatory requirement. He further submits that relaxation was granted during the pandemic and students were allowed to attend online classes. However, insofar as clinical training is concerned, the same would be compulsory, specially, considering the nature of the profession.

25. On behalf of the Indian Law Institute, Delhi (ILI), Mr. Ankit Jain, ld. Counsel, submits that ILI only conducts LLM and PhD. Courses. He further submits that ILI has set up a Grievance Redressal Committee in compliance with the directions of this Court. As far as attendance is concerned for LLM, since it is a full-time course on campus, it requires 85 % attendance and for PhD, the ILI follows the norms of the UGC.

26. Mr. Neeraj Verma, ld. Counsel appearing for National Institute of technology, Delhi (NIT) submits that in Engineering courses, the usual norm



is to have 75% mandatory attendance.

27. Ms. Pragya P. Singh, Id. Counsel for South Asian University submits that in the said University, 75 % is the mandatory attendance.

28. Id. Counsel for National Museum Institute of History of Art, Culture And Museology (now recognized as Indian Institute of Heritage), also confirms that it has set up a Grievance Redressal Committee and the attendance required in Post Graduate Courses is 75%. It is submitted that additional 15% relaxation is provided for any medical exigencies and further relaxation for unforeseen circumstances can be given by the competent authority.

29. On behalf of the Intervenor, *i.e.*, the deceased's sister- Ms. Mehak Rohilla, it is submitted, as per the BCI Rules, 2008 there are obligations even on teachers to take lectures and if the said rules are translated into actual lecture hours, it requires 36 lecture hours per week for 18 weeks, which would in effect mean that 6 lectures of one hour each would have to be held everyday for 6 days every week.

30. On behalf of the Dental Council of India ('DCI'), there is no appearance. Let Mr. Tanoodbhav Singh Dev accept notice for the DCI and place its position on record.

31. The Id. ASG has clearly taken the position that the Central Government is willing to undertake consultations with regard to the attendance norms. Such consultation in the opinion of the Court would be necessary to enable gathering of views of all stakeholders including institutions of higher education, teachers, students, parent bodies etc. Various factors need to be considered in order to decide as to whether attendance norms ought to be mandatory or not.



32. In these circumstances, the following directions are issued:-

- a) the UGC as also the Secretary Ministry of Education through the Department dealing with Higher Education shall issue a circular across the country to all educational institutions at undergraduate and postgraduate level to, as a last opportunity, to constitute their Grievance Redressal Committees within two weeks, failing which action would be taken as per law;
- b) the Secretary Ministry of Education dealing with Higher Education shall commence a stakeholder consultation on the question as to whether attendance norms ought to be made mandatory in undergraduate and postgraduate courses. While doing so, the following factors shall be borne in mind, along with any other relevant factors:-
 - i. Whether mandatory attendance norms are being actually followed in institutions of higher education or have the same been rendered redundant in most courses, especially in non-clinical and non-practical courses;
 - ii. Whether mandatory attendance norms are being genuinely followed by students as it is stated that attendance by proxy has become quite prevalent, at least in some institutions;
 - iii. Would mandatory attendance requirements be necessary in courses which are based purely on theory or self-learning;
 - iv. Whether mandatory attendance norms would be needed considering that students have access to various learning platforms, including internet platforms, which are beyond classroom learning;



- v. Whether mandatory attendance norms have been prescribed internationally, in other countries, and if so in which countries, and for which courses;
- vi. Whether mandatory attendance norms can be relaxed, and if so in what manner and for which courses;
- vii. What are the safeguards that institutions need to put in place to accommodate students, who do not fulfil the mandatory attendance norms;
- viii. Whether the enforcement of mandatory attendance norms, through penalties such as debarment from exams, halting promotion to the next class/ academic year, etc. ought to be permitted;
- ix. Whether student should be encouraged to attend classes with positive measures such as incentives, promotion, additional marks, etc;
- x. The impact of mandatory attendance norms on the physical and mental health of the students and the role of Grievance Redressal Committees;
- xi. Whether voluntary attending of classes ought to be encouraged, in order to enhance responsibility amongst the students rather than forcing the same through penalties etc;
- xii. Whether students, who are employed, ought to be encouraged to pursue their studies without enforcing the mandatory attendance norms or avail of open learning;
- xiii. Whether a warning system ought to be put in place before penalising any students or parents for lacking in attendance;
- xiv. Whether teachers also ought to be answerable for lack of attendance by students;
- xv. Whether attendance norms should be the same for urban and rural areas, based on internet penetration



- and access to information;
- xvi. Considering the manner in which classes are conducted in the post-pandemic (Covid19) era, should it be mandatory to have hybrid mode of teaching and whether physical attendance is required or even online or virtual attendance would be permissible to complete the mandatory attendance norms;
 - xvii. Whether classroom learning needs to be made more analytical and application based, to make students attend classes voluntarily rather than mandatorily;
 - xviii. Whether examination patterns need to be changed to make question papers more analytical and application based, which would require students to attend classes and engage in discussions rather than studying from mere guidebooks, like *dukki*, etc;
 - xix. What type of technological interventions can be applied for the purpose of improving, teaching-learning, evaluation process, enhancing educational access and streamlining education planning and administration including processes related to admission, attendance, assessment, etc;
 - xx. What steps can be taken by Educational Institutions for ensuring better quality of classroom infrastructure to promote voluntary participation of students in classes and hybrid mode of teaching.

Let the consultation process be commenced within a period of two weeks.

- c) The UGC shall file its affidavit within two weeks setting out and dealing with all the aspects in terms of the previous order dated 21st August, 2024.
- d) The BCI shall place on record the material that it has relied upon



to take the position that attendance norms are mandatory internationally as well. On the aspect of attendance norms internationally, if any other institution or parties wish to place any material on record, they are free to do so.

- e) The NMC and DCI shall also file their affidavits setting out the attendance norms and the manner in which the same are prescribed by them.

33. Insofar as the Respondent No.1 is concerned, Id. Counsel for Respondent No. 1 shall also seek instructions if the Respondent No. 1 is willing to make any *ex-gratia* compensation to the family of the deceased-student who, unfortunately, passed away.

34. All the institutions, who are impleaded in this matter or who are referred to in the previous orders are free to file their affidavits on the attendance norms.

35. Since the records are quite bulky, all Id. Counsels appearing in this matter as also the office of the Id. *Amicus Curiae* including Id. Counsels- Mr. Sukrit Seth and Ms. Akashi Lodha are permitted to obtain the electronic records of this matter for making submissions before the Court on the next date of hearing.

36. List on 14th October, 2024.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

SEPTEMBER 9, 2024

Mr/bsr/bh/pr

W.P.(CRL) 793/2017

Page 13 of 13