
(9) In the light of above observations, the impugned notice dated 12th August, 1999 Annexure P-2 has to be quashed. Accordingly, this writ petition is allowed quashing Annexure P-2 dated 12th August, 1999. We also direct that fee structure of the petitioners and other students admitted through LEET-99 will have to be at par with the fee structure which is applicable to the second year students of B. Tech. (1998-Batch) programme as per the provision in rule 4.5 of Part-B of the Information-cum-admission Brochure of LEET-99 issued by the Punjab Technical University. In case any excess fee has been charged from such students earlier, the same shall be adjusted in the fees to the charged for subsequent years. However, in the circumstances of the case, there shall be no order as to costs.

R.N.R.

Before V.K. Bali & J.S. Narang, JJ

GOPAL KRISHAN CHATRATH,—*Petitioner*

versus

BAR COUNCIL OF INDIA AND OTHERS,—*Respondents*

C.W.P. No. 7738 of 2000

29th September, 2000

Advocates Act (25 of 1961)—Ss. 7 and 49—Bar Council of India Rules, 1975—Part IV, Section B, RI. 2(1) as amended in 1999—Validity—Amendment in rule to promote legal education and to lay down standards of such education—Amended rule sought closure of Law Colleges which are exclusively running evening sessions—Bar Council of India unable to show that the Universities and State Bar Councils were consulted while promulgating amendment to rule—Amendment to rule 2(1) held to be violative of S. 7(1)(h) of the 1961 Act and as such the same is struck down with liberty to Bar Council of India to promulgate the rule in accordance with law.

Held, that the perusal of Section 7(1)(h) and Section 49(1)(d) definitely leads us to a conclusion that for promoting legal education and for laying down the standards of legal education the Universities in India and the State Bar Councils were required to be consulted and that the said consultation had to be effective consultation because the Universities are engaged in imparting the legal education. There has been no consultation of the Universities in India. Thus, the amendment promulgated under rule 2(1) of the Rules is not sustainable and is violative of Section 7(1)(h) being not promulgated with consultation of Universities in India and State Bar Councils, as such the said

amendment is struck down. However, the Bar Council of India, if it may so deem appropriate, shall be at liberty to promulgate the rule in accordance with law and we leave the right of the petitioner open to question the said promulgation vis-a-vis right to education and the right of the Bar Council of India to frame the rules not falling within the ambit "to promote legal education and to lay down standards of such education."

(Paras 25, 26 & 27)

Gopal Krishan Chatrath, petitioner in person.

Varinder Singh Rathore, Advocate, for respondent No. 1

Anupam Gupta, Advocate, for the Panjab University, Chandigarh.

JUDGMENT

J.S. Narang, J.

(1) G.K. Chatrath, a Senior Advocate and who presently also happens to be President of the Punjab and Haryana High Court Bar Association and who claims to have been associated with legal education in various capacities in Panjab University, Chandigarh as well as in other Universities, and who has been a Fellow of Panjab University for the last 32 years and has been elected as a member of the Syndicate from the Faculty of Law and further an elected member of the Governing Body of the Indian Law Institute, New Delhi, by the Public Interest Litigation (CWP No. 7738 of 2000) and the candidates seeking admission to Three Years' Degree of Law in the Department of Laws (Evening College), Chandigarh, and who have cleared the Entrance Test and are within the admission zone (CWP Nos. 10363, 10426 and 10517 of 2000), have filed these petitions calling in question amendment to Rule 2(1) of Section B in Part-IV of the Bar Council of India Rules on legal education requiring the law colleges/departments to run only day session from the year 2000-2001 as also to quash the directions issued by the Bar Council of India,—*vide* letter dated 26th May, 2000, Annexure P-2 being invalid, without legal authority, in colourable exercise of authority and ultra-vires the Advocates' act, 1961 as well as Articles 14, 21 and 39-A of the Constitution of India. By this order, we, thus, propose to dispose of all these four writ petitions as common question of law are involved therein. The facts have, however, been extracted from C.W.P. No. 7738 of 2000.

(2) Amended Rule 2(1) of Section-B in Part IV of the Bar Council of India Rules (hereinafter referred to as "the Rules") that is under challenge, reads thus :

"Resolution No. 68/1999 Dated 24th October, 1999

The amended rule will read as follows :

2(1). That the Law Education under Section B may be through whole time colleges. All Law Colleges which are exclusively running evening sessions shall switch over to "Day" session during the academic year 2000-2001 failing which they will not be entitled to approval of affiliation by the Bar Council of India. Provided that wherever the college is running evening course, the students who were admitted to the first year in the evening sessions during the academic year 1999-2000 shall be allowed to complete the course."

(3) By virtue of the above amendment the Bar Council of India has sought the closure of Law Colleges which are exclusively running evening sessions and the closure is sought to be made effective from the academic year 2000-2001. If any of the colleges does not adhere to the amendment it shall entail non approval of the affiliation by Bar Council of India. As per the proviso, those students who had been admitted to the 1st year in the evening sessions during the academic year 1999-2000, shall be allowed to complete the course.

(4) The Bar Council of India,—vide its communication dated 5th January, 2000, directed the Universities and the Law Colleges in the country including the Department of Laws, Panjab University, Chandigarh, for taking appropriate steps to comply with the amendment promulgated in the rules, within the time frame stipulated. The Bar Council of India further required that an intimation to this effect should be sent by the concerned University/Law Colleges.

(5) The matter is stated to be taken up by the Academic Committee of Panjab University—respondent No. 3, which is claimed to be specified committee which is concerned with the academic matters of Department of Laws. Upon consideration and deliberations, a consensus was arrived at to the effect that the letter under consideration addressed by Bar Council of India dated 5th January, 2000, is not applicable to the Department of Laws, Panjab University, Chandigarh, on the ground that the matter pertains to only those Law Colleges which are exclusively running evening sessions whereas the University is running morning and evening sessions. The consensus arrived at was communicated,—vide letter dated 5th April, 2000 to the Secretary of Bar Council of India categorically stating that the amended rule is not applicable to the Department of Laws, Panjab University, Chandigarh (copy of the letter is annexed as Annexure P1). The other plea which has been spelt out in the said letter is that the Department of Laws admits students on the basis of Common

Entrance Test and imparts education to the successful students in two sessions i.e. morning and evening session. Thus, it is not an exclusively evening run department.

(6) The Department of Laws was not clear as to whether the reasons submitted by it have been duly accepted by the Bar Council of India or not as no communication/reply had been received pursuant to letter dated 5th April, 2000. As a consequence thereof, a reminder letter dated 11th May, 2000, had been sent seeking the reaction of Bar Council of India vis-a-vis consensus of the Department of Laws. Yet another communication dated 22nd May, 2000 was addressed. It was,—*vide* letter dated 26th May, 2000 that the Bar Council of India reverted back to the Department of Laws, Panjab University, whereby the Bar Council of India expressed its desire that all law teaching institutions should discontinue evening sessions from the academic year 2000-2001 and further explained that if an institution is running only evening session, it is eligible to convert the evening session in the “Day” sessions. The plea of Department of Laws was not accepted by the Bar Council of India but at the same time post script was added stating that the rule has been challenged in various High Courts in the country by way of writ petitions. Thus, eligibility of students undertaking the Law Course in the evening course shall be subject to the decision of the Courts. Copy of the letter has been annexed as Annexure P2. However, it shall be opposite to notice the relevant portion of the letter which reads as under :

“The Bar Council of India wants all Law Teaching Institutions to discontinue Evening Session from the Academic Session 2000-2001. If an institution is running only Evening Session, it is eligible to convert the Evening Session into Day Session and if it runs both Evening and Day Sessions, then it has to discontinue the Evening Session and can continue with Day Session alone. Day Session means continuous study of 5 and 1/2 hours with a break of one hour maximum at any time between 7 a.m. to 7 p.m.

Under these circumstances your argument that this rule is not applicable to your Department cannot be accepted.”

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PS : However this rule has been challenged in certain High Courts by way of writ petitions and the eligibility of students undertaking the law course in the evening sessions will be subject to the decision of the Court.”

(7) Petitioner has raised three fold submissions in his endeavour to show that the impugned amendment to the Rules can not sustain. Before we may, however, delay on the points raised by the petitioner, it will be useful to give, in brevity, the bare minimum facts of the case.

(8) Panjab University, Chandigarh, was established under the Panjab University Act, 1947 and it caters to the needs of the students in various fields including Legal Education. Its department of Laws is stated to be one of the premier institute of Legal Education in the country, especially in Northern Region. The Bar Council of India has recognised degree in law offered by it to be a qualification for enrolment as an Advocate. It is the positive case of petitioner so pleaded in paragraph 3 that the Department of Laws holds classes in two sessions, i.e. Morning and Evening for which full fledged staff, as per requirement of the Bar Council of India has been provided. Admissions to both the Sessions in the Law Department are made on the basis of Common Entrance Test and the students are admitted on the basis of *inter se* merit determined in the result of the Entrance Test plus weightage for marks in the qualifying examination. The Bar Council of India has defined Regular Law College or Department of Universities and has fixed minimum hours of study in the class rooms and total hours of study including contact, library etc. per week for being considered as whole time college/Department of Universities and that Panjab University provides class room teaching per week as per hours fixed by the Bar Council of India during Morning and Evening Sessions. These are whole time institutions/colleges for both morning and evening sessions. In the additional affidavit dated 12th September, 2000, it has been reiterated that the Department of Laws, Panjab University makes admission on the basis of Entrance Test in morning and evening sessions and teaching is imparted as whole time college/department in both the sessions.

(9) In the written statement that has been filed on behalf of the contesting respondent-Bar Council of India, there is no denial to the facts, as referred to above. The Bar Council of India has felt content by simply commenting that these averments need no reply or comments.

(10) Reverting to the contentions raised by the petitioners, it has been argued in the first place that the Bar Council of India was mandatorily required to obtain consent of the Universities in the country and also the State Bar Councils while promulgating any rule for promotion of legal education and laying down standards of such education. In this regard, reference has been made to Section 7(1) (h)

of the Advocates Act, 1961. Section 7 primarily deals with the functions of Bar Council of India, the relevant portion reads as under :

“7. Functions of Bar Council of India : (1) The functions of the Bar Council of India shall be : (a) to (g) xxx xxx xxx xxx (h) to promote legal (e) to (i) xxx xxx xx xxx”

(11) The argument is that the rule making power which pertains to laying down standards of legal education is to be read with Section 7(1) (h) which categorically defines the functions of the Bar Council of India. When the rule is to be made or any amendment to the existing rule is to be made which pertains to standard of legal education, it is mandatory that the Universities in India which are imparting such education and the State Bar Councils ought to be consulted. The consultation has to be effective and not superficial.

(12) There being no consultation either with the Panjab University or any of the Universities in the Country or State Bar Councils, the impugned amendment to the Rule, deserves to be struck down being in violation of the procedure which is mandatory, further contends the petitioners.

(13) Another fact of these provisions has been put forward and an alternative argument has been advanced that in fact the Bar Council of India is not entitled to make such a rule which instead of promoting legal education demotes the same. In the case in hand, the closure of those colleges which are imparting legal education in the evening sessions has been promulgating by virtue of the amendment. In fact, no such rule could have been made which runs contrary to the mandatory provisions provided in respect of functions of the Bar Council of India. The rule has not been made for discharging any of the statutory functions of the Bar Council of India by closure of evening sessions. By no stretch of imagination, the amendment in the rule can be read to “promote the legal education and to lay down the standards of such education”. The Rule that has been framed by the rule making authorities goes beyond their statutory functions and, therefore, must necessarily be held to be ultra-vires and inoperative in law.

(14) In this regard, reliance has been placed on the judgment rendered by the Apex Court in *V. Sudeer v. Bar Council of India and another* (1). We are afraid, the authority cited is not direct on the point in issue. In the said case the question involved was entirely different i.e. could a rule be made by way of invoking the power under Section 7 read with Section 49 for laying down rules/prescriptions for pre-

enrolment training before the grant of the licence of an Advocate to a Law-Graduate. It is in this context that the power under Section 7(1)(h) and Section 49 of the Act, has been examined by the Hon'ble Supreme Court of India. However, guidance is being taken from the said judgment as to whether promulgating a rule by virtue of which the evening sessions in which the law education is imparted can be eliminated? According to us, the answer cannot be found in the dicta laid down by the Supreme Court of India in the judgment, referred to above. The argument to the effect that by discontinuance of the evening classes, in no manner, legal education is promoted or standards of law education are laid down, however, does arise.

(15) Thirdly, the petitioner has argued that right to education is guaranteed under the Constitution of India. It is the right of every citizen of this country to educate himself as enshrined in Article 41 of the Constitution of India. It is argued that a person who take up employment in any institution, be it Government or private, he still has the right to educate himself and the legal education which is being imparted in the evening sessions cannot be done away with by promulgating the provisions which run counter to the right guaranteed under the Constitution of India. It is a separate connotation that the rights enshrined under the Constitution of India can be subjected to reasonable restrictions supported by the reasons not tainted by colourable exercise of power by the authority. The rule under challenge is directly in violation of the right guaranteed under the Constitution of India to a person who is entitled to claim legal education which was being imparted by providing evening sessions by the Law Colleges even in exclusively evening run session. If such colleges are directed to switch over today sessions, the persons who are regularly employed shall not be able to educate themselves specially, the legal education.

(16) It has further been contended that the right of education which is still available to a person for educating himself other than the legal education, the right of the persons who want to educate themselves in legal education would not be at par with others. The act of denying the legal education in the evening session would also be violative of Article 14 of the Constitution. The education, be it legal education, science education or arts education, everybody is entitled to equal treatment.

(17) Besides, three points, referred to above, on law, other contention of Mr. Chatrath, which is based upon facts, is as to whether the impugned amendment would apply to the Universities where law education is being imparted in morning as also evening sessions. The emphasise has been made on the word "exclusively" running evening

sessions. The example of Panjab University has been taken where the Department of Laws imparts legal education in the morning session as well as in the evening sessions. It is the case of the petitioner that the rule would apply to only those Law Colleges which are exclusively running evening sessions and which have been asked to switch over to the "day sessions", during the academic year 2000-2001. It is further argued that the plea of the Department of Laws and that of the University is correct that the rule is not applicable to Panjab University. The Bar Council of India while sending reply to the query raised by the Department of Laws, Panjab University, has for the first time tried to explain that the rule is applicable to all the Universities where evening session is being held for imparting legal education whereas amendment is silent to that effect.

(18) Mr. Anupam Gupta, Advocate, appearing for Panjab University placed an affidavit on record filed by Prof. Paramjit Singh, Registrar, Panjab University on behalf of Panjab University and Department of Laws in which it has been categorically averred that the University had not been consulted before promulgating the impugned rule. The relevant para of the affidavit reads as under :

"That no mode of consultation, direct or indirect, with the University or its Law Department was adopted by the Bar Council of India before amending Rule 2(1), intimation whereof was first sent by the Bar Council of India to the Panjab University,—vide Circular LE (CIR No. 1/2000) dated 5th January, 2000 (copy enclosed)."

(19) So far as the contesting respondent i.e. Bar Council of India is concerned, we are constrained to say that the Bar Council of India adopted a very casual and careless attitude while assisting this Court in disposing of this matter. It shall be appropriate to note various orders which have been passed from time to time giving opportunities to Bar Council of India for filing reply and then for production of the record. Suffice it to say that despite the opportunities granted by this Court, Bar Council of India has been produced the relevant record. It has been made clear to the learned counsel for Bar Council of India with regard to the first argument it is absolutely necessary to see the record as to whether any consultation was made by Bar Council of India with the Universities in India imparting such education and also the State Bar Councils. It shall be apposite to note our order dated 22nd September, 2000 in which the sequence of facts relating to non-production of record from time to time have been recorded. The excerpt of the same reads as under :

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While admitting this writ petition, we had mentioned in the order itself that reply be filed three days before the adjourned date i.e. by 30th June, 2000 and despite the fact that Bar Council of India (for short BCI), which is the contesting respondent, had since been served twice over and on its non-appearance, on our request, the petitioner had informed the President of the BCI namely Mr. Subarao and also sent a FAX message to him no appearance was put in on behalf of the BCI. It is only on 11th September, 2000 that Mr. Varinder Singh Rathore, Advocate, appeared on behalf of BCI. All that has been stated above, has been mentioned by us in our order dated 11th September, 2000.

Mr. Varinder Singh Rathore, who represents the BCI on 11th September, 2000 sought time to have further instructions in the matter. We had mentioned in our aforesaid order that it is not a case where request of BCI may deserve acceptance, yet, in the interest of justice, we adjourned the case to 13th September, 2000. We further mentioned in the aforesaid order that records of the case, particularly, pertaining to consultation by the BCI with the Bar Councils located in the country and the Universities must be made available to this Court on the date fixed the purpose of looking to the records aforesaid is also indicated in our aforesaid order.

When this matter came up for hearing on 14th September, 2000, all that was done in compliance to our orders was that a letter dated 5th January, 2000 had been placed on record which depicts the resolution passed by the BCI leading to the impugned amendment in the relevant Rules. A report of the proceedings and recommendations made in Three Day All India Consultative Meeting of Bar Councils, Universities, UGC and State Governments sponsored and organised by the Bar Council of India, in association with the National Law School of India, was also placed on record. We have mentioned in our order dated 14th September, 2000 that from the report of the proceedings and recommendations, it was not clear as to whether the Bar Councils in the country as also Universities were consulted in view of the provisions contained in Section, 7(1)(h) of the Advocates Act and further the records had not been produced as the counsel stated that the same pertained to the year 1996 and it would take few days more to locate the same. However, once again, in the interest of Justice, we adjourned the matter specifically mentioning that the same

was granted enabling the counsel to make records and, in particular, the letters that might have been issued in pursuance of Three Day All India Consultative Meeting. Meanwhile, counsel representing the University, Mr. Anupam Gupta, was also asked to file affidavit of some responsible officer of the University wherein a mention may be made as to whether University was consulted before amending the Rule. An affidavit of Dr. Paramjit Singh, Registrar of the University has been filed from where it can easily be culled out in specific terms that the University was not consulted in the matter Para 4 of the affidavit reads thus :

“4. That no mode of consultation, direct or indirect, with the University or its Law Department was adopted by the Bar Council India before amending Rule 2(1), intimation whereof was first sent by the Bar Council of India to the Panjab University,—*vide* circular LE (CIR No. 1/2000) dated 5th January, 2000 (copy enclosed)”.

It is unfortunate that even today, Mr. Rathore seeks adjournment to make records available to the Court. He, however, states that he has made frantic efforts to contact all concerned and even visited Delhi personally but records have not been made available to him. He, however, places on record a letter dated 20th September, 2000 written by the BCI and addressed to Shri Varinder Singh Rathore, i.e. counsel for BCI. The contents of the said letter read thus :

“This is in regard to writ petition no. 7738/2000 filed in the Hon’ble High Court of Punjab and Haryana by Shri Gopal Krishan Chatrath *versus* Department of Law, Panjab University, Chandigarh. It has been decided to consider the issue raised by the writ petitioner in the above writ petition that in abolishing the evening colleges whether consultation was made with the University, particular, Panjab University, in the next meeting of the Legal Education Committee fixed for the 22nd of October, 2000.”

From what is stated in the letter aforesaid and otherwise also on instructions, Mr. Rathore informs us that the whole matter is to be reconsidered in the meeting of Legal Education Committee fixed for 22nd October, 2000. From the tenor of pleadings and submissions, that have been made before us, a clear impression is gathered that neither the State Bar Council

in the country nor the Universities were consulted before making amendments in the Rules.

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In view of what has been said above and in view of insistence by the petitioners, whose career to pursue legal education is in jeopardy, we are convinced that interim directions need to be issued in this case. However, we give one last chance to BCI to bring the records or if the records do not support the BCI, then to be frank enough to make a statement before the Court that no consultation was made.”

(20) However, in the absence of the record, learned counsel for Bar Council of India has argued on the basis of the reply that has been filed and the documents brought on record. As mentioned above, on the bare minimum facts, reference whereof has been made above and which have been averred in the petition, there is no rebuttal. It has, however, been pleaded that under Section 7(1)(h) of the Advocates Act, Bar Council of India has been entrusted the work of laying down standards of legal education and recognition of degrees in law and that Bar Council of India is fully empowered by virtue of Section 49 of the Advocates Act to lay down the standards of legal education and ask the Universities to impart legal education in such manner as prescribed by the Bar Council of India because the ultimate aim of the legal education is to prepare the students for joining legal profession and, thus, the Universities are bound to follow the standards of legal education laid down by the Bar Council of India. It has further been pleaded that Bar Council of India is better equipped to decide the requirements in this regard and therefore, it has power to lay down the rules on all subjects pertaining to the professional legal education. It is further the case of Bar Council of India that it is not laying down any standards of legal education by virtue of the amended rule and, therefore, it did not require any consultation with the Universities and State Bar Councils in this regard. However, it has been pleaded in the very next line in paragraph 19 of the written statement by way of clarification that Bar Council of India has consulted the Universities imparting legal education and State bar Councils in the country in respect of legal education and recognition of degree in law and if the rule is struck down, it would certainly affect the efforts of Bar Council of India to streamline the standards of legal education in the country. On facts, the amended rule is stated to be applicable to the Institutes/ Colleges running morning as well as evening sessions and not to those, which are exclusively running evening session.

(21) Before we might proceed further in the matter, it requires to be mentioned that even though, when the matter came up for hearing on 22nd September, 2000, Mr. Rathore, who represents the Bar Council of India, did not join an issue insofar as position of law with regard to requirement of prior consultation of the Universities and State Bar Councils is concerned, but joined issues on facts alone, yet during the course of arguments, he forcefully contends that there was no requirement of any such consultation. Relevant part of order dated 22nd September, 2000 reads thus :

“Mr. Chatrath vehemently contends that the impugned amendment could not be brought about unless the mandatory procedure, mentioned in Section 7(1)(h) and 49(1)(d) of the Advocates Act was followed. Mr. Rathore, who appears for BCI could join an issue only on facts and insofar as position of law is concerned, same is not even controverted.”

(22) Admission of law cannot be binding against a party and, therefore, Mr. Rathore would be well within his right to urge before us that there was no requirement of consultation either with the Universities or State Bar Councils located in the country before amending the rule.

(23) It is contended by the learned counsel that there was no requirement under law to consult the Universities and the State Bar Councils as the rule making power has been given exclusively under Section 49(1)(d) of the Act. It is further argued that under Section 49(1)(d), the standards which have to be laid down for legal education fall within the ambit of the rule making power of the Bar Council of India and that the rule has been correctly promulgated keeping in view the mushroom growth of the Law Colleges and the excessive legal education which has been imparted to those persons who may not even want to become Advocates. The words “standards of education” can certainly mean an improvement in the quality of education. He has further argued that the evening sessions are not adhering to the norms which are required for a whole time college. The whole time college has not been specifically defined but it has been mentioned under rule 2(2) wherein it is made mandatory that the whole time college must provide at least 30 hours of working per week including contact and correspondence programme, tutorials, home assignments, library, clinical work etc. Provided that the actual time for classroom lectures is not less than 20 hours per week. The Counsel made tremendous efforts in substantiating his argument by stating that the Law Colleges which are running evening sessions including all the Universities are

not adhering to these norms, therefore, it was felt necessary that the evening sessions should be done away with provided they switch over to day sessions and adhere to the norms provided for whole time colleges.

(24) Unfortunately, the learned Counsel for Bar Council of India, has not been able to produce the record for what reasons, we are not aware as none has been disclosed to us. In the absence of the record, we are unable to appreciate this argument and are, therefore, unable to accept the same. We had pointedly asked the learned counsel for Bar Council of India that the first argument raised by the petitioner would in itself be enough to strike down the impugned amendment if he is unable to show that the Universities and State Bar Councils had not been consulted. In his endeavour to show consultation, reference has been made to Annexure R1, a communication dated 5th January, 2000 from the Secretary to Bar Council of India to the Registrar of all the Universities imparting legal education to Deans/Faculties of Law and the Principals of all the Law Colleges, in which no reference has been made to the report of the proceedings and recommendations derived from Three Day All India Consultative Meeting of Bar Councils, Universities, UGC and State Governments, which in fact had been sponsored and organised by Bar Council of India in association with National Law School of India University, Bangalore, Reference "Reforming Legal Education". The perusal of the letter does not show any reference to the said Consultative Meeting. In fact the entire report of the proceedings and recommendations condified from the said Consultative Meeting held from 12th October, 1996 to 14th October, 1996, spells out only one thing that this was more or less a seminar held pertaining to the reforms to be brought on professional legal education. Learned Counsel for Bar Council of India has not made categoric and forthright statement to the effect that in fact no consultation of the Universities and the bar Councils of the State ever took place. In the absence of any record, which looks to have been purportedly kept away from the Court, an irresistible conclusion that has to be drawn is that the Universities and Bar Councils of the States were not consulted while promulgating amendment to the rule. On 22nd September, 2000, Mr. Rathore was asked even to bring a letter that might have been circulated to all Bar Councils as well as Universities in the country for Three Day All India Consultative Meeting of Bar Councils, Universities, UGC and State Governments but even that has not been produced despite specific directions. The purpose to see the letter was to find out if in the agenda, even a mention with regard to discontinuing evening classes was made.

(25) In view of what has been discussed above, no need at this stage arises to determine the later two points, pressed into service by the petitioner as the first contention in itself would be enough to knock out the impugned amendment. The perusal of Section 7(1)(h) and Section 49(1)(d) definitely leads us to a conclusion that for promoting legal education and for laying down the standards of legal education the Universities in India and the State Bar Councils were required to be consulted and that the said consultation had to be effective consultation because the Universities are engaged in imparting the legal education. There has been no consultation of the Universities in India and in this regard we are fortified by the affidavit filed by the Registrar of Panjab University, the specific para of which has been noted above to the effect that the Panjab University had not been consulted at the time of promulgation of the amendment carried out under rule 2(1) of the Rules.

(26) Thus, we hold that the amendment, promulgated under rule 2(1) of the Rules, noted above, is not sustainable and is violative of Section 7(1)(h) being not promulgated with consultation of Universities in India and State Bar Councils, as such the said amendment is struck down.

(27) We refrain ourselves from opinion anything with regard to the other two arguments as there is no occasion or reason to express any opinion in respect thereof at this stage. However, the Bar Council of India, if it may so deem appropriate, shall be at liberty to promulgate the rule in accordance with law and we leave the right of the petitioner open to question the said promulgation vis-a-vis right to education and the right of the Bar Council of India to frame the rules not falling within the ambit "to promote legal education and to lay down standards of such education."

(28) Before we might part with this order, we would like to mention that mushrooming of Institutions imparting legal education without caring a fig for the required standards is causing havoc in legal profession. There is no need to make a specific mention of such institutions but the fact cannot be denied that some such institutions are offering law degrees entitling one to engage himself in legal profession without his attending even a single class. The students, studying at their home only travel and take a temporary residence for few days to such institutions only at the time of taking annual examinations. Such students, normally, when enter the legal profession, which is known as noble one, work in bringing down its image. Entry of such persons in the legal profession needs to be checked

immediately and sooner it is done, the better. However, to achieve this object, which would be a welcome step and has to be appreciated by all concerned, procedure, as established under the law has to be followed. Such institutions have to be definitely identified. During the course of arguments, we were told that it is only the Panjab University which was cautious in the matter and happened to address letters to the Bar Council of India and on replies received thereof, did not give admission to the students, who had appeared in the Entrance Test but insofar as other institutions, like Law College in Delhi University as also Law College in Kurukshetra University, are concerned, they are continuing to run the evening classes, whereas, the Law College at Panjab University, Chandigarh, has been asked to shift to morning session. This clearly shows that no effort at all has been made by the Bar Council of India to identify the institutions which are not adhering to the prescribed standards of legal education. It may be recalled at this stage that it is not even disputed that Law College at Chandigarh, offering both morning and evening sessions, admits the students through an Entrance Test which is common for both sessions. The standard of education for morning and evening sessions is the same and a student in the evening session has to pass through all tests which a student in the morning has to, everything being common. It has again gone un rebutted that the Law College, Chandigarh is one of the premier institutes engaged in imparting legal education in the country and in any case in northern India. Institution like, Law College of Panjab University, has been asked to shift to morning session and, as mentioned above such institutions which are in fact selling degrees, whether morning or evening, whether any student attends classes in that institution or not, have not been identified and no specific orders passed with regard to such institution. The Bar Council of India, in our view, would do well to identify such institutions and issue directions within the frame work of the Act to identify such institutions and bar the entry of students there at.

(29) For the foregoing discussion, these petitions are allowed and the impugned amendment to Rule 2(1) of Section B, Part IV of the Bar Council of India Rules, is quashed. It may be clarified that the Panjab University, Chandigarh, which is before us, had held Entrance Test for filling up 300 seats for the morning and evening sessions. Those candidates, who had competed in the examination and had opted for evening sessions shall be admitted accordingly in the evening session 2000-2001.

(30) Parties are, however, left to bear their own costs.

S.C.K.