



भारतीय विधिज्ञ परिषद् BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi - 110002

Press Release dated 01.11.2020

The General Council of the Bar Council of India has considered the Order dated 21.10.2020 passed by the Hon'ble High Court of Delhi in W. P. (C) No.8307/2020 titled as Samarth Nayar & Ors. Vs. Controller of Examinations, Guru Gobind Singh Indraprastha University & Ors.

A perusal of Para-9 of the above referred Order reveals that the respondent No.1 (Controller of Examinations, Guru Gobind Singh Indraprastha University) has clarified that the students pursuing law degrees who have approached the court by filing of the present petition would be free, not to take the physical exam, which are being held from 02.11.2020.

It has been further stated by the Respondent No.1 *“(Controller of Examinations, Guru Gobind Singh Indraprastha University) in the said para that the Students who do not wish to take the said exams may not give the exam on 02.11.2020 without any penal consequences. Such students would be allowed to give subsequent Re-appear exams which will be held once the colleges start functioning properly”*.

In Para-10 of the said Order, the Hon'ble High Court of Delhi had held *“keeping in view the above stand of respondent No.1 and in view of the clarification that no penal consequences will follow on the petitioners, choice is left to the petitioners. If they wish to give the exam commencing on 02.11.2020 they are free to do so. If for some reason they do not feel appropriate to give the said exam they will be free to appear in the Reappear exam which will be held subsequently”*.

It is observed by the Council, that if physical exams as contemplated by the University is held with effect from 02.11.2020 and if the said exams are held without any penal consequences to any Student who is unable to appear in the said exam, no student shall be prejudiced or affected and they will get an opportunity to appear in the Exam again after physical reopening of the college/university as contemplated in the Circular/Press Release of the Bar Council of India dated 27.05.2020 and 09.06.2020 respectively, which was further clarified by the BCI Resolution dated 05.10.2020.

Furthermore, the Hon'ble Supreme Court of India vide its Judgment dated 28.08.2020 in Writ Petition (Civil) No.724/2020, 739/2020, 746/2020, 745/2020, 741/2020, 794/2020, 814/2020, 862/2020, 861/2020 and Special Leave Petition (C) No.10042/2020 (Diary No. 15056/2020) has clearly given a right to respective State Disaster Management Authority in view of the pandemic to make requests to the concerned authorities for postponing the physical exam if they deem fit, which request will have to be heard by the authority concerned.

Accordingly, Council, hereby modifies BCI's Resolution/Circular/Press Release dated 27.05.2020, 09.06.2020, and 05.10.2020 to provide an option to Universities/Centres of Legal Education to conduct physical examination with the NOC of the State Government and State Disaster Management Authority, by giving the option to such law students who are unable and/or unwilling to appear in such physical exams till the Covid-19 pandemic is averted, and having appeared therein, who are/is unable to clear such exam, to appear in the re-appear exam after physical reopening of the University/Centres of Legal Education.

The council further places on record the fact that the resolution dated 27.05.2020, later on clarified by Press note dated 09.06.2020 and resolution of 05.10.2020 respectively, was passed believing that the pandemic Covid-19 will subside sooner than later. However, the pandemic still persists with no early respite from it in sight. The Council, therefore, resolves that examination for all intermediary along with final year law students/classes too may be held online, if Universities/Law Colleges are able to hold it online, and if adequate infrastructure and other facilities for students is/are available. It is further resolved that if online exam is so conducted and any student/students is/are unable to take it, or having appeared therein, is unable to pass such exam/subject paper, such students shall be entitled to take the reappear exam/paper whenever it is held preferably within one month of physical re-opening of the Universities/College after the pandemic is averted.

This would leave no cause of grievance to any candidate and this recourse will reduce the anxiety of the candidates as it would provide such candidates who are averse to take the physical exam during the pandemic Covid-19, with an option to take the exam on a later date within one month of physical reopening of Law Colleges/Universities when normalcy resumes and when the pandemic situation no longer exists, and/or an option to also appear in online exams presently, if the University/Center of Legal Education is able to conduct such online examination, if they i.e. students are comfortable with it, while, if, any candidate is unable or unwilling to appear in the online exam owing to technical and/or infrastructural difficulties or otherwise, and is also averse to appear in any physical exam which may be held during the pandemic period owing to apprehension of getting infected with

Covid-19, or having appeared therein is unable to pass such offline/online exam/s, they can always appear in such physical exam after the pandemic is over without being penalized or prejudiced.

Furthermore, as has been stated in our previous Circular/Press Release, all students affected by pandemic who are promoted to the next year/semester, without their promotion getting affected, and who are unable to appear in or having appeared is/are unable to clear any presently held (during pandemic) offline/online exam and/or the physical exam to be preferably held within one month of physical re-opening of Universities/Colleges, shall also be provided with opportunity to clear such papers, before the grant of law degree, immediately, after the final year examination, without any penalization or prejudice being caused to them.

In view of the above discussion and observation, the resolution dated 27.05.2020 and the clarification issued by the Bar Council of India on 09.06.2020 and 05.10.2020 stand modified accordingly.


(Srimanto Sen)
Secretary
Bar Council of India