

ITEM NO.25

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition (Civil) No.577/2024

NILAY RAI & ORS.

Petitioner(s)

VERSUS

BAR COUNCIL OF INDIA

Respondent(s)

(With IA No.204570/2024-EX-PARTE STAY)

Date : 20-09-2024 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. A Velan, AOR
Mrs. Navpreet Kaur, Adv.
Mr. Jagjeewan Singh Ranyal, Adv.

For Respondent(s) Ms. Radhika Gautam, Adv.
Mr. Anjul Dwivedi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1 Issue notice, returnable in four weeks.
- 2 The proceedings under Article 32 of the Constitution of India have been initiated by final year students of law at Campus Law Centre and Law Centre I, Faculty of Law, University of Delhi. They are aggrieved by a notification dated 3 September 2024 under which final year law students of law are not

allowed to take the All-India Bar Examination¹ 2024.

- 3 A Constitution Bench of this Court delivered a judgment in ***Bar Council of India vs Bonnie Foi Law College and Others***². While leaving the issue of the stage at which AIBE has to be conducted to the Bar Council of India, this Court proceeded to make certain observations about the exam itself. Specifically on the issue of eligibility, the Court had noted that a person may have to forego the opportunity to take the exam on account of non-declaration of the result by their law college or university at the time when the exam is conducted. Consequently, such persons may be denied the opportunity to work in Court until the next exam cycle. Therefore, the Bench had remarked that a person would be allowed to take the AIBE as long as they could furnish proof of their eligibility to appear for the final semester of the final year of their law course. The relevant observations of the Constitution Bench are contained in paragraphs 45 to 48 of the opinion of Justice Sanjay Kishan Kaul, which are reproduced below:

“45 The effect of the view expressed by us would be that it has to be left to the Bar Council of India as to at what stage the All India Bar Examination has to be held — pre or post. There are consequences especially in respect of the interregnum period which would arise in holding the All India Bar Examination in either scenario, and it is not for this Court to delve into them but it would be appropriate to leave it to the Bar Council of India to look to the niceties of both situations. However, in view of larger ramifications we do consider it appropriate to delve into some, though not all of the aspects which may get involved in holding the All India Bar Examination, especially in view of some suggestions made by the Amicus Curiae.

46 We may take note of the fact that the All India Bar Examination is scheduled to be held twice in a year. It is necessary that this schedule should be strictly followed as otherwise the students with Law degrees would be left idling their time.

¹ “AIBE”

² (2023) 7 SCC 756

47 One of the questions which arose was whether only on passing the examination from a law university/college or obtaining such a degree should a person be eligible to take the All India Bar Examination? In India, the various recognised institutions providing Law degrees often declare results at different times. The concern is that a person on account of non-declaration of result may lose out on the opportunity to appear in the All India Bar Examination leading to a fairly long hiatus period of time without having the opportunity to work in court proceedings.

48 **We are inclined to accept the suggestion from the learned Amicus Curiae that students who have cleared all examinations to be eligible to pursue the final semester of the final year course of Law, on production of proof of the same, could be allowed to take the All India Bar Examination.** The result of the All India Bar Examination would be subject to the person passing all the components required under the course of study of the university/college. This would be subject to the All India Bar Examination results being valid for a specified period of time.”

(emphasis supplied)

- 4 At paragraph 55, the Constitution Bench while agreeing in-principle with the suggestions of the *amicus curiae*, observed that the suggestions should receive the attention of the Bar Council of India urgently in the process of steps taken to implement the judgment. Though the judgment was delivered on 10 February 2023, rules have not yet been framed by the Bar Council of India. Counsel appearing on behalf of the Bar Council of India had sought an adjournment before this Court to take instructions on the time frame within which the rules would be framed. This Court is now apprised of the fact that rules are likely to be framed within a period of four to six weeks. The urgency arises because the last date for the registration for AIBE is 25 October 2024, while the examination is scheduled to take place on 24 November 2024.
- 5 Bearing in mind the above time frame, it would be manifestly unjust if a large number of students who are otherwise qualified in terms of the judgment of this Court in **Bonnie Foi** (supra) are deprived of the opportunity

of appearing for the AIBE 2024.

- 6 We, therefore, direct that for the ensuing AIBE 2024, the Bar Council of India shall allow registration of all students who fall within the ambit of paragraph 48 of the judgment in **Bonnie Foi** (*supra*), that is, students who are qualified to appear in the final semester of the final year examination in their respective law universities.
- 7 While conferring greater responsibility on the Bar Council of India, the Bench in **Bonnie Foi** (*supra*) had hoped that the Council would ensure that “only persons who are well-equipped with the tools of law pass the AIBE”³. Such a responsibility is by no means discharged by barring students from appearing for the AIBE based solely on the date of declaration of result. We issue the above direction conscious of the fact that in the absence of such a direction, students who are appearing for the final semester from several universities, including State universities, have no control over the date of the holding of the final examination or the declaration of the result. Such students should not be left in the lurch by postponing the date of enrollment.
- 8 The above directions shall operate as directions *in rem* to the Bar Council of India to govern the ensuing examination which is to take place on 24 November 2024.
- 9 List the Petition on 25 October 2024.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar

³ (2023) 7 SCC 756 [57]