

P.S. to Special Officer (Vigilance)

Request 139

Kindly intimate whether any vigilance/departmental enquiry is pending against Sri Anupam Goyal, presently posted as Additional Director (Research), JTRI, Lucknow.

Dr. Jaiswal  
S.O., Admin A-4

H. P.  
05/08/14

S.O.  
Admin A-4

As per record of this cell there is no vigilance inquiry pending against the above officer at present.

5/8/14

S.O. Vigilance Section

Request 139

Kindly intimate whether any vigilance/departmental enquiry is pending against Sri Anupam Goyal, presently posted as Additional Director (Research), JTRI, Lucknow.

Mr. Jain  
05-8-14  
S.O., Admin A-4  
M.  
05/08/14.

S.O. Admin A-4

No Vigilance/Departmental enquiry is pending in the Admin. 'C' Section against Sri Anupam Goyal, presently posted as Additional Director (Research), JTRI, Lucknow.

Dated: 05.08.2014

for Mr. Jain 05-8-14  
S.O. Admin. 'C'  
483  
05-8-14

P.A. to  
O.S.D.(Enquiry I)

Request 139

Kindly intimate whether any vigilance/departmental enquiry is pending against Sri Anupam Goyal, presently posted as Additional Director (Research), JTRI, Lucknow.

Dr. Jaiswal  
05.8.14  
S.O., Admin A-4

Mr. l  
05/08/14.

S.O. Admin A-4

No departmental enquiry is pending against the above named Judicial officer in the present office of O.S.D. (Enq.).

~~Signature~~  
R.O. to O.S.D. (Enq.)  
05.8.2014



P.A. to O.S.D. Enquiry II

Request 139

Kindly intimate whether any vigilance/departmental enquiry is pending against Sri Anupam Goyal, presently posted as Additional Director (Research), JTRI, Lucknow.

S.O. Admin A-4

No inquiry is pending against the above-named officer Sri Anupam Goyal, in the chamber of Sri Sanjay Kumar Pachori, H.S.O.S.D. (Enquiry)

Sunil Kumar  
05/08/2014

R.O. attached to the chamber of O.S.D. (Enq.).

Dr. Jainef

05.8.14  
S.O., Admin A-4

M. l.  
05/08/14.



S.O. Confidential (A) Section

Request 139

Kindly intimate whether any vigilance/departmental enquiry is pending against Sri Anupam Goyal, presently posted as Additional Director (Research), JTRI, Lucknow.

Dr. Jaiswal  
05.08.14  
S.O., Admin A-4

M. L.  
05/08/14.

S.O. (Admin A-4)

No departmental enquiry is pending against Sri Anupam Goyal, aforesaid.

M. L.  
5/8/14  
K Singh  
5-8-14  
S.O.

S.O. (Services)

Kindly intimate the date of joining of Sri Anupam Goyal, presently posted as Additional Director (Research), JTRI, Lucknow in U.P. HJS.

Request 139

S.O. Admin A-4:

As per official records available in the Services Section, Sri Anupam Goyal, presently posted as Additional Director (Research), JTRI, Lucknow, joined service on 15.12.2008 as a Direct Recruit.

Submitted as desired.

Dr. Jainwal  
05.08.14

S.O., Admin A-4

M. J.  
05/08/14

Alkeshy  
05.08.14

[Signature]  
05.08.14  
SO (S)



FACULTY OF LAW  
UNIVERSITY OF DELHI  
DELHI - 110007

Request 139

27667483  
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nomitais@hotmail.com

PROF. NOMITA AGGARWAL  
Dean and Head of the Department

Annex - 7

Ref. No. LF/ 591  
20-07-2004  
Dated \_\_\_\_\_

21

Dr. Anupam Goyal  
T-84, Pallavpuram-II,  
Meerut

Dear Sir,

**Ref: Your Application for the Post of Lecturer in Law (Ad hoc) Full-time.**

The Departmental Selection Committee held on Saturday, the 17<sup>th</sup> July, 2004, after interviewing you, has decided to recommend your name to the University for appointment as Lecturer in Law (Ad hoc) Full-time from 3<sup>rd</sup> Aug., 2004 to 7<sup>th</sup> January, 2005 subject to the approval by the University.

In anticipation of the approval by the University you are requested to join Law Centre-I on 3<sup>rd</sup> Aug., 2004 on the following terms & conditions:

1. The appointment is purely temporary on ad hoc basis which will last upto 7<sup>th</sup> January, 2005 but your services may be terminated at any time even earlier without notice & without assigning any reason or when the permanent incumbent joins his/her duty.
2. You will have to do teaching/research and other academic work as may be assigned to you by the Faculty. You will also be required to do other administrative work even after expiry of appointment including revaluation of Answer-script(s) relating to subjects taught by you during appointment.
3. You will be paid monthly emoluments as per Delhi University Rules.
4. The appointment does not confer upon you any right/lien whatsoever of extension or re-appointment after the above said date of appointment.

You are requested to submit all the attested copies of certificates in support of your academic qualifications alongwith copy of Certificate of having qualified the NET Exam.



Nomita Aggarwal  
Dean

CC to:

1. The Registrar, University of Delhi, Delhi.
2. The Professor in Charge, Law Centre-I.

Prof. Anupam Goyal



**AIR 2002 DELHI 440**

ANIL DEV SINGH AND

Dr. MUKUNDAKAM SHARMA, JJ.

Anees Ahmed and another, Petitioners v. University of Delhi and others, Respondents.

C.W.P. No. 3412 and 4186, 3519 of 1997, D/- 3-5-2002.

**(A) Advocates Act (25 of 1961), Ss. 28, 49-A — Bar Council of India Rules (1975), R. 49— Advocates (Rights to take up Law Teaching) Rules (1979), R. 3 — State Bar Council of Delhi Rules, Rr. 102, 103 — Right to practice as advocate — Full time law teachers — Not entitled to enroll themselves as advocate — State Bar Council allowed them to enrol by misinterpreting provisions of Rules — Cancellation of enrolment by Bar Council of India — Not improper — Further, said teachers cannot raise plea of estoppel as they suffered bar at threshold and given enrolment in violation of and contrary to Rules.**

**Evidence Act (1 of 1872), S. 115.**

No full time law teacher drawing regular salary from the University could enroll himself as an advocate. Such full time teachers were allowed to take enrolment by the State Bar Council misinterpreting the provisions of the 1979 Rules. The said full time law teachers were not eligible to be enrolled as an advocate and, therefore, enrolment itself was clearly contrary to R. 103 of the Rules. When such persons who suffered a bar at the threshold are given enrolment in violation of and contrary to Rules, they cannot take up a plea of estoppel. Therefore, the Bar Council of India acted within its jurisdiction in cancelling such enrolment which was done in violation of the extent rules. Section 26 of the Advocates Act may not be strictly applicable to the facts of the present cases but if such action could be taken by the Bar Council of India in exercise of its other statutory powers the same would be held to be valid. The said teachers are bound by the provisions of R. 103 of the Bar Council of Delhi Rules and the Rules of 1979 are neither applicable to their cases nor they can seek assistance from the said Rules unless the rules framed by the Competent Authority allow the privilege specifically. No

such privilege could be claimed by way of implication or on the basis of surmises or conjectures. Therefore, no such right or privilege to practice as advocate could be claimed by the full time law teachers of the Delhi University which is not permitted under the rules.

(Paras 62, 64, 65, 57)

The plea by the law teachers that after adaptation of the rules, a lawyer could take up full time law teaching in regular scale of pay and, therefore, a Law teacher could also be enrolled as an Advocate would not be tenable. As such an interpretation is not only fallacious but also absurd. It is settled law that an interpretation which leads to absurdity should always be avoided. The wordings used in the Notification issued by the Central Government make it explicit that under the said notification a right is given to practising advocate to take up law teaching but no such parallel right is given to teachers of law to be enrolled as advocates. The wording used in the provisions is plain and unambiguous and requires no addition of words to the said statute. The intention of the legislature is also clear and apparent and, therefore, the Court would not proceed to reframe the legislation by giving a meaning which the respondent teachers seek to give.

(Paras 46, 51)

The plea by the law teachers that they are in fact not required to teach for more than three hours in a day and that they are, therefore, eligible to practice in the Courts and to retain their membership of the Bar Council would not be tenable. When the statute does not by itself permit such a situation and when R. 103 has specifically prohibited full time law teachers from enrolling as advocate, no such permission could be granted to a full time law teacher to be enrolled as an advocate. The aforesaid interpretation is also in consonance with Statutes, Ordinance and the Resolutions adopted by the Delhi University and the University Grants Commission. Further more it is the specific stand of the Delhi University that no full time teacher of the Delhi be he or she is in the Law Faculty or in any other Faculty of the University is not entitled to practice as a lawyer as long as he is a full time teacher in the University. The directions of the University Grants Commission are based on the aforesaid analogy



when it conveyed the decision that in order to promote quality education full time law teachers would not be permitted to enroll as members of the Bar entitling them to full time practice in law. Even the permission granted to such teacher to appear and represent in social action/public interest litigation is in the nature of legal aid and social activity and not as a lawyer. The same would not by itself empower or enable a full time teacher of the Delhi University to practice as a Lawyer. Even in a case where enrolment is granted by the Bar Council and thereafter the advocate seeks to take up law teaching, the same could be permitted only within the parameter of the 1979 Rules read with the University Statutes and Ordinance. (Paras 53, 54, 55)

The Resolution 108 of 1996 adopted by the Bar Council of India correctly lays down the law and the practice and no objection could be taken as against the said Resolution. By adopting the said Resolution the Bar Council of India has tried to rectify the mistake by removing the names of such persons who are full time salaried law teachers and who were enrolled as Advocates overlooking the specific provisions of R.103 of Bar Council of Delhi Rules and by misinterpreting the provisions of the 1979 Rules. (Paras 59, 60)

**(B) Constitution of India, Art. 226 — Public Interest Litigation — Locus standi — Petition by Advocate, a officer of Court for restraining full time Law Teachers from taking up law practice in law Courts — Cause sought to be espoused through petition is of public importance — Respondents, full time Law Teachers failed to prove and establish that filing of writ petition is in any manner motivated or instigated by two Professors of the Law Faculty of Delhi, who according to respondents were inimical towards them — Petition cannot be dismissed on ground of maintainability.**

(Para 44)

**Cases Referred : Chronological Paras**  
 Dental Council of India v. Hari Prakash, AIR 2001 SC 3303 : 2001 AIR SCW 3353 : 2001 (8) SCC 61 50  
 Satish Kumar Sharma v. Bar Council of H.P., AIR 2001 SC 509 : 2001 AIR SCW 113 : 2001 (2) SCC 365 36, 62, 65  
 Dr. Ambedkar Basti Vikas Sabha v. Delhi Vidyut Board, AIR 2001 Delhi 223 : 2000 (87) DLT 170 43  
 State of Maharashtra v. Nanded Parbhani

Z. L.B.M.V. Operator Sangh, AIR 2000 SC 725 : 2000 AIR SCW 261 : 2000 (2) SCC 69 49  
 V. Sudeer v. Bar Council of India, AIR 1999 SC 1167 : 1999 (3) SCC 176 37  
 Dr. Haniraj L. Chulani v, Bar Council of Maharashtra & Goa, AIR 1996 SC 1708 : 1996 AIR SCW 1913 : 1996 (3) SCC 342 34, 59  
 K. R. Srinivas v. R. M. Premchand : 1994 (6) SCC 620 41  
 Union of India v. Deoki Nandan Aggarwal, AIR 1992 SC 96 47  
 Indira Bai v. Nand Kishore, AIR 1991 SC 1055 : 1990 (4) SCC 668 63  
 State of Kerala v. Mathai Verghese, AIR 1987 SC 33 : 1987 Cri LJ 308 48  
 Sachidanand Pandey v. State of W. B., AIR 1987 SC 1109 : 1987 (2) SCC 295 42

Petitioner No. 1 in person. A. Mariaruptham with Anurag Mathur, for Respondents 1 & 2. R. K. Saini, for Respondent 3. Sanjiv Sachdeva, for Respondent 4, A. K. Verma, for Respondent 9. H. S. Phoolka, Sr. Adv. with S. S. Bawa, for Respdnt. 11. Respondent 16 in person. R. P. Bansal, Sr. Adv. with Ms. Bansak Jaya, for Res. 17. Pramod Gupta, for Respdnt. 19. Respdnt. 20 in person.

**Dr. MUKUNDAKAM SHARMA, J. :—** As the facts and the issues that arise for our consideration in these writ petitions are similar, we propose to take up all these writ petitions together and dispose of the same by this common judgment and order.

CW. 3412/97

This writ petition is filed by the petitioners by way of public interest litigation for a direction to respondent No. 1/Delhi University to take disciplinary action against all Full Time Law Teachers of the Delhi University, who are practising in the courts and also praying for a direction to prohibit all Full Time Law Teachers of the Faculty of Law of the University of Delhi from carrying on legal practice/profession and also from appearing in the courts of law in any manner. The petitioner has also sought for a direction to the Delhi State Bar Council, respondent No.3 to cancel the enrolment / licence to practice given to Full Time Law Teachers.

2. The petitioner No.1 is an Advocate practising in the High Court of Delhi and he has stated that he has filed the writ peti-



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tion as he is interested in the advancement of legal education in India. The petitioner No.2, at the time of filing of the writ petition, was a Law Graduate, who passed out and obtained Degree of Law at the relevant time when the writ petition was being filed.

C.W. 3519/97

This writ petition is filed by the petitioner, who is a Professor of Law in the Faculty of Law, of the University of Delhi. The petitioner was initially appointed as a Lecturer in Law and posted at Law Centre-II of the Faculty of Law of the University of Delhi in August, 1971. Thereafter the petitioner got his promotion and in due course of time, became a Professor in Law in the Faculty of Law of the University of Delhi. The petitioner filed the present petition challenging the order passed by the Bar Council of India on 9-8-1997 cancelling and removing the name of the petitioner from the roll of Advocates of the Bar Council with a further direction that it would be open to the petitioner to make a fresh application for enrolment as an Advocate on his ceasing to be in employment.

C. W. 4186/97

This petition is filed by the petitioner, who was also a faculty member in the Faculty of Law of the University of Delhi. He has, in this writ petition, challenged the legality of the order dt. 9-8-1997 passed by the Bar Council of India directing removal of the name of the petitioner from the roll of Advocates.

3. The common question that arises for consideration in these writ petitions is as to whether or not a faculty member in the Faculty of Law of the University of Delhi could subsequently enroll himself as an advocate and appear in a court of law and simultaneously carry on the duties of a full time faculty member of the Faculty of Law of the University of Delhi.

Another ancillary issue, which also was argued in these writ petitions is whether or not an enrolled Advocate could apply for and be given a faculty position in the Faculty of Law of the University of Delhi after the concerned person has enrolled himself /herself as an Advocate.

4. The private respondents in the writ petition filed by way of public interest litigation are /were all full time faculty members of the University of Delhi, who are /

were employed as full time faculty members in the University of Delhi and have subsequently enrolled themselves as Advocates through the Delhi State Bar Council.

5. The petitioners in the other two writ petitions were appointed as faculty members of the Faculty of Law in the University of Delhi and continued to be employed as full time faculty members when subsequently they enrolled themselves as Advocates through the Delhi State Bar Council.

6. In the light of the above facts, the aforesaid two questions would arise for our consideration in these writ petitions.

7. The petitioners No.1 in the writ petition filed by way of public interest litigation, appeared in person and during the course of his arguments referred to various statutes and ordinances of the University of Delhi as also the provisions of The Advocates Act, 1961 and the rules framed by the Bar Council of India and in the light thereof submitted that the aforesaid provisions prohibit Full Time Law Teachers from practising in the law courts and, therefore, the Full Time Law Teachers, who are taking up law practice in law courts subsequently, after enrolling themselves as advocate are liable to be prohibited/restrained from pursuing the aforesaid two avocations simultaneously. He submitted that in view of the fact that most of the full time law teachers are also practising as advocates, the students community pursuing the law course in the University of Delhi has been badly affected as the law teachers have been neglecting their obligation to their students and number of complaints on that count have been lodged. In support of his contention, the petitioner No.1 relied upon the report submitted by a committee comprising of Prof.. Andre Beteille of Delhi School of Economics and Prof.. K. R. Sharma of the Faculty of Law, University of Delhi. He also relied upon various decisions of the Supreme Court of India in support of his contention and also to the Keynotes address in American Bar Association Meeting in August, 2000 by John Sexton of the New York Universities Law School.

8. The Bar Council of India was also represented by their counsel at the time of arguments, who had drawn our attention to the various provisions of the Advocates Act, 1961 read with rules framed by the Bar



Council of Delhi, particularly to Rule 103 of the Rules as also the rules framed by the Central Government called Advocates (Right to take up Law Teaching) Rules, 1979, hereinafter referred to in short the 1979 Rules. Referring to the said provisions, it was submitted by the counsel that under rule 103 of the Rules framed by the State Bar Council any person, who is either in part time or full time service cannot be enrolled as an Advocate, whereas a part-time teacher of Law could be admitted as an Advocate under the proviso to the aforesaid rule 103 of the Delhi Bar Council Rules. He further submitted that Full Time Law Teachers could not have been enrolled as Advocates as provided for under rule 103 of the Delhi Bar Council Rules and that the 1979 Rule is a rule that operates post-enrolment and has no application to a person, who is not an Advocate. He also referred to the provisions of Rule 49 of Chapter-II (Standards of Professional Conduct and Etiquette), Section VII (Restrictions on other employment) of the Bar Council of India rules laying down that an Advocate shall not be a full time salaried employee of any person, Government, firm, corporation or concern, so long as he continues to practise, and shall, on taking up any such employment, intimate the fact to the Bar Council, on whose roll his name appears and shall thereupon cease to practise as an Advocate so long as he continues in such employment.

9. He also referred to Resolution No. 108 of 1996, which was passed by the Bar Council of India giving stress to the need of improving the standards of legal education in India. The said resolution states that the Bar Council of India disapproves the practice of enrolling full time salaried teachers in law, who were not enrolled as advocates at the time of their whole time appointment as teachers by misinterpreting the Rules made by the Central Government under S. 49-A of the Advocates Act, 1961 viz. Advocates (Right to take up Law Teaching) Rules, 1979 and direct all the State Bar Councils to take immediate steps to initiate removal proceedings under the provisions of the Advocates Act and the Rules framed thereunder against such full time salaried law teachers, who have been enrolled as advocates. He submitted that the ban on legal practice by Full Time Law Teachers has a salutary objective

to achieve, namely, to maintain the standards of legal standards. He further submitted that so far the right of the practicing Advocates to take up the law teaching is concerned, the same is a right, which has been conferred on the practicing Advocates to take up teaching of law under the Rules made by the Central Government under S. 49-A of the Advocates Act, 1961 and, therefore, the members of the Bar would have a right to take up teaching of law. He also submitted that the Full Time Teachers of Law were never entitled to be enrolled as Advocates and were wrongly enrolled by the Bar Council of Delhi by misinterpreting the Rules made by the Central Government under S. 49-A of the Advocates Act, 1961 and as such the Bar Council of India has initiated action against such persons, who have been wrongly enrolled as advocates.

10. He also relied upon various statutes and ordinances of the University of Delhi and, particularly referred to Clause 5 of Ordinance XI, which provides that a teacher shall devote his/her whole time to the service of the University and shall not, without the permission of the University, engage directly or indirectly, in any trade or business whatsoever, or in any private tuition or other work to which any emolument or honorarium is attached.

11. Counsel appearing for the University of Delhi also relied upon various ordinances and statutes of the University of Delhi, in support of his contention that the service conditions of Full Time Teachers of the University of Delhi incorporated in the contract of service, are statutory in nature and that they are binding on the teachers and that a Full Time Teacher of the University of Delhi is required to devote his/her time only to teaching and research in the University and that a Full time Teacher cannot undertake any other professional activity such as practicing law as an Advocate, without the express permission of the University authorities and that the University has not granted any permission to Full Time Teachers either in the Faculty of Law or any other Faculty to practice as a Lawyer and only Sh. N. S. Bawa was granted a very limited permission to appear in the case of riot victims of 1984. Counsel reiterated the stand taken in the counter affidavit filed by the University of Delhi that no Full Time Teacher of the University of Delhi, be it a



teacher in the Law Faculty or any other Faculty of the University, is entitled to practice as a Lawyer so long as he is a Full time Teacher in the University.

12. In support of his contention, he referred to various clauses of the University ordinances and the resolutions of the University as also of the University Grants Commission. Referring to the same he submitted that it is imperative that the Full time Teachers devote their time and energy to teach the students in the Faculty of Law and to do research and publication and that the said teachers are not simultaneously entitled to also practice law, as a lawyer.

13. The aforesaid contentions were refuted by Sh. B. T. Kaul, Sh. S. S. Vats and Sh. B. P. Srivastava, who are parties in the present proceedings and were/are the members of the Faculty of Law of the University of Delhi and were subsequently enrolled as Advocates and also Sh. R. P. Bansal, Senior Advocate, who represented Sh. O. P. Khadaria and Sh. H. S. Phoolka, Senior Advocate, appearing for Sh. N. S. Bawa. It was submitted by them that the public interest litigation filed by the petitioners, is liable to be dismissed as the said petition is motivated and is the result of personal jealousy and the outcome of internal politics in the Faculty of Law of the University of Delhi. It was also submitted by them that the petitioners have no locus to file such a public interest petition as by filing the present petition the petitioners are trying to project the personal cause of some full time law teachers, who are inimically placed towards those private respondents. It was submitted by them that the Bar Council of India has no power to remove the names of Sh. S. S. Vats and Sh. B. P. Srivastava exercising the powers under the proviso to S. 26 (1) of the Advocates Act as none of the situations, as envisaged under the aforesaid provisions, is attracted to the facts and circumstances of the said two cases. It was submitted that since the removal orders were passed by the Bar Council of India only on the ground that the State Bar Council had wrongly enrolled the Law Teachers by misinterpreting Advocates (Right to take up Law Teaching) Rules, 1979, the said orders of removal passed by the respondent No.1, namely, Bar Council of India, under S. 26 of the Act, were bad in law and are required to be set aside and quashed.

14. It was also submitted by them that the provisions of S. 48-A are not applicable to the facts of the present case and in absence of any express provisions to act *motu* or in any other manner by the Bar Council of India after the specified period no such power could be exercised by the respondent No.1, as sought to be done in the present cases. It was also submitted by them that 1979 rule is the enabling provision for Advocates to take up law teaching and since an Advocate can take up law teaching, the same would also permit a law teacher to get himself enrolled as an Advocate, if he fulfils the prescribed qualification. It was submitted that the enabling provision for enrolment being provided under the Bar Council of Delhi Rules, which is required to be read in conjunction with 1979 Rule, particularly, relating to definition of a part time teacher in law and being so read and upon adopting the principle of harmonious in its implementation, it would justify the interpretation given by the Bar Council of Delhi, who has the exclusive power of enrolment. It was submitted that the said decision of the Bar Council of Delhi did not call for any interference by the Bar Council of India and, therefore, the action taken by the Bar Council of India is liable to be set aside and quashed.

15. It was further submitted by them that the main thrust of 1979 Rules is that a person can combine law teaching and law practice simultaneously, provided teaching load does not exceed three hours a day. It was also submitted by them that sub-sec. (4) of S. 49-A of the Advocates Act stipulates all the rules made by the Central Government in all situations shall prevail and override the rule made by the Bar Council and that if there is any repugnancy between the rules framed by Bar Council and the Central Government then the Rules of the Central Government would prevail and therefore, according to them, 1979 rule enabling a person to take up full time law teaching and law practice simultaneously would prevail even if there is a rule of Bar Council of India providing otherwise. It was also submitted that Sh. S. S. Vats and Sh. B. P. Srivastava were enrolled as Advocates way back in the year 1980 after the respondent No.2 had satisfied itself about the eligibility of Sh. Vats and Sh. Srivastava for their enrolment. It was also submitted that

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all the Full Time Law Teachers were called as Advocates long time back and action against them at this point of time would be discriminatory. It was also stated that the action was taken due to investigation of S/Sh. M.P. Singh and Singh, who are colleagues of the said respondents full time teachers.

16. Sh. S. S. Vats had advocated an additional point urging that the show cause notice issued to him did not mention about the alleged fraud being played by him while getting himself enrolled as an Advocate, but in spite of the same when the final order was taken against him and the impugned order was passed, misrepresentation was made a ground for removal of his name from the roll of Advocates.

17. In the light of the aforesaid submissions, we may now proceed to dispose of all the three writ petitions, answering the points that arise for our consideration.

18. In order to appreciate the rival contentions, centring around the aforesaid points, it would be necessary to have a look into the various statutory provisions and other connected documents like resolutions etc., to which reference was made during the course of arguments.

19. The Advocates Act was enacted in the year 1961. Section 2(1)(a) of the said Act defines the word Advocate as under :—

“advocate” means and advocate entered in any roll under the provisions of this Act.”

Whereas clause (m) thereof defines the word “State Bar Council” as follows :—

“State Bar council” means a Bar Council constituted under S. 3”.

Section 26 of the Act reads as follows :—

“26. Disposal of applications for admission as an advocate —(1) A State Bar Council shall refer every application for admission as an advocate to its enrolment committee, and subject to the provisions of sub-sec.(2) and (3) (and to any direction that may be given in writing by the State Bar Council in this behalf), such committee shall dispose of the application in the prescribed manner:

[Provided that the Bar Council of India may, if satisfied, either on a reference made to it in this behalf or otherwise, that any person has got his name entered on the roll of advocates by misrepresentation as to an essential fact or by fraud or undue influ-

ence, remove the name of such person from the roll of advocates after giving him an opportunity of being heard.]

(2) Where the enrolment committee of a State Bar Council proposes to refuse any such application, it shall refer the application for opinion to the Bar Council of India and every such reference shall be accompanied by a statement of the grounds in support of the refusal of the application.

(3) The enrolment committee of a State Bar Council shall dispose of any application referred to the Bar Council of India under sub-sec. (2) in conformity with the opinion of the Bar Council of India.

[(4) Where the enrolment committee of a State Bar Council has refused any application for admission as an advocate on its roll, the State Bar Council shall, as soon as may be, send intimation to all other State Bar Councils about such refusal stating the name, address and qualifications of the person whose application was refused and the grounds for the refusal.]”

Section 48-A of the Act defines the power of revision provided to the Bar Council of India, in the following manner :—

“(1) The Bar Council of India may, at any time, call for the record of any proceeding under this Act under this act which has been disposed of by a State Bar Council or a committee thereof, and from which no appeal lies, for the purpose of satisfying itself as to the legality or propriety of such disposal and may pass such orders in relation thereto as it may think fit”.

20. Section 48-AA deals with the power of review and S. 48-B deals with power to give directions and they are enacted in the following manner; :-

“48-AA-- Review. The Bar Council of India or any of its committees, other than its disciplinary committee, may of its own motion or otherwise review any order, within sixty days of the date of that order, passed by it under this Act.”

“48-B. Power to give directions :— (1) For the proper and efficient discharge of the functions of a State Bar Council or any committee thereof, the Bar Council of India may, in the exercise of its powers of general supervision and control, given such directions to the State Bar Council or any committee



thereof as may appear to it to be necessary, and the State Bar Council or the committee shall comply with such directions".

**21.** Section 49 of the Act deals with the General power of the Bar Council of India to make rules whereas S. 49-A deals with the power of the Central Government to make rules. Section 49-A provides that the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act including rules with respect to any matter for which the Bar Council of India or a State Bar Council has power to make rules. Sub-sec. (4) of the said Section provides that if any provision of a rule made by a Bar Council is repugnant to any provision of a rule made by the Central Government under this Section, then, the rule under this section, whether made before or after the rule made by the Bar Council, shall prevail and the rule made by the Bar Council shall, to the extent of the repugnancy, be void.

**22.** The Bar Council of India, in exercise of its rule making powers under the Advocates Act, 1961, framed a set of Rules called the Bar Council of India Rules, 1975. Section 28 of the Advocates Act also empowers the State Bar Council to make rules to carry out the rules relating to enrolment and can exercise all the said powers relating to enrolment. In exercise of the said powers, the State Bar Council of Delhi has framed a set of Rules. Rules 102 & 103 of the said Rules, which are relevant for the purpose of deciding the present petitions, are extracted below :—

"102— Every person who desires to apply for admission as an advocate, shall make an application in writing to the Secretary of the Council in Form as in the appendix to these rules, accompanied by the receipt of having deposited Rs. 1100/- in cash with the Secretary of the Council or in the State Bank of India, Delhi to the credit of the Council".

"103. A person, who is otherwise qualified to be admitted as an Advocate but is either in full or part-time service or employment profession shall not be admitted as an Advocate."

Provided, however, that this rule shall not apply to :—

- (i) & (ii) .....
- (iii) Any person, who is in part-time serv-

ice as a Professor, Lecturer or Teacher-in-Law

**23.** The full time law teachers and members of the Faculty of Law, who argued their cases in person before us, heavily relied on the provisions of 1979 Rules, called the Advocates (Right to take up Law Teaching) Rules, 1979. Rule 3 thereof provides the right of a practising Advocate to take up law teaching in the following manner :—

.....  
 .....  
 "(3). Right of practising advocates to take up law teaching :—

(1) Notwithstanding anything to the contrary contained in any rule made under the Act, an advocate may, while practicing, take up teaching of law in any educational institution which is affiliated to a University within the meaning of the University Grants Commission Act, 1956 (3 of 1956), so long as the hours during which he is so engaged in the teaching of law do not exceed three hours in a day.

(2) When any advocate is employed in any such educational institution for the teaching of law, such employment shall, if the hours during which he is so engaged in the teaching of law do not exceed three hours, be deemed, for the purposes of the Act and the rules made thereunder, to be a part-time employment irrespective of the manner in which such employment is described or the remuneration receivable (whether by way of a fixed amount or on the basis of any time scale of pay or in any other manner) by the advocate for such employment."

**24.** In this connection, reference should also be made to S. VII of the Bar Council of India Rules, of which Rule 49 is a part, which provides as follows :—

49. An Advocate shall not be a full-time salaried employee of any person, Government, firm corporation or concern, so long as he continues to practise, and shall, on taking up any such employment, intimate the fact to the Bar Council on whose roll his name appears, and shall thereupon cease to practise as an Advocate so long as he continues in such employment."

**25.** The Bar Council of India passed a Resolution being Resolution No. 108 of 1996 resolving as under :

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**"RESOLUTION No. 108 OF 1996"**

Resolved that the Bar Council of India approves the practice of enrolling full time salaried teachers in law, who were not enrolled as advocates at the time of their whole time appointment as teachers by misinterpreting the rules made by Central Government under S. 49-A of the Advocates Act, 1961 viz. Advocates (Right to take up Law Teaching) Rules, 1979 and direct all the State Bar Councils to take immediate steps to initiate removal proceedings under the provisions of the Advocates Act and the rules framed thereunder against such full time salaried law teachers, who have been enrolled as advocates".

26. Since reference and reliance was also placed upon various provisions of the statutes and ordinances of the University of Delhi and to the memorandum issued by the University Grants Commission. Such provisions are also required to be referred to and extracted.

27. The University of Delhi has been created by an Act of Parliament called the Delhi University Act, 1922. Under the provisions of the said Act, Delhi University authorities are empowered to make statutes and ordinances, which shall have force of law. Clause 5 of Ordinance XI reads as follows :—

"5. That the teacher shall devote his/her whole time to the service of the University and shall not without the permission of the University engage directly or indirectly, in any trade or business whatsoever, or in any private tuition or other work to which any emolument or honorarium is attached, but this prohibition shall not apply to work undertaken in connection with the examinations of Universities or Public Service Commission and, where the permission of the Vice-Chancellor has been obtained, to any other examination work, nor shall the prohibition be applicable to any literacy work or publication".

28. The Executive Council of the University, which has the power to prescribe the terms and conditions of service, vide its resolution No. 425 dt. 5-11-1983 resolved as follows :—

"After considering the matter from all aspects, the Council resolved that Law Teachers be not granted permission to act, appear and plead in the courts of law in the cases processed through the Legal Aid Bu-

reau and in other cases taken by the Law Teachers on humanitarian grounds".

29. The University Grants Commission vide its letter dt. 7-12-1995 informed the Registrar of Delhi University as under :—

"In suppression of the University Grants Commission circular issued vide No. F1-8/91 (PS) dt. 5th May, 1994 on the subject of practice in courts by full time law teachers, the Commission has decided that, as a matter of national policy and with a view to promotion quality education, full time law teachers in the University departments and affiliated law colleges, shall not be permitted to enrol as members of the bar entitling them to full time practice in law.

1. Full time law teachers may, however, be permitted to appear in the courts for social action/public interest litigation matters as well as legal aid/public interest litigation matters as well as legal aid/services programme.

2. Chamber practice/legal consultancy work should be allowed to full time law teachers in the University system on the same basis as other professional and technical consultancy work such as to the teachers in the faculties of Business Management and Engineering.

3. University may allow, on special request, specialised teachers in International Law and privilege to assist sovereign state and specialised international entries as consultants and also to appear, upon invitation, before the International Courts of Justice and all other adjudicatory and arbitral tribunals and bodies under appropriate frame work of rules.

4. Further, both points 2 & 3 any consultancy work offered from within or from outside the country shall be accepted only after the due permission of the University concerned.

5. For the purposes of this resolution, the expression "Full-Time" teachers in law means a teacher appointed on recognised by a University enjoying fully salaried tenure promotional avenues, security of service as well as terminal benefits.

This may also brought to the notice of the affiliated law colleges of your university and for further necessary action. The university is requested to send a report on the present status on practice in courts by full



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time law teachers in the University and its affiliated colleges preferably within one month".

30. Clause 9 of Ordinance XIII which provides for employing part time teachers from among practicing lawyers in order to meet the requirements of students in the matter of imparting practical knowledge of law reads as under :—

"However, in the Faculty of Law, part-time teachers may be appointed only against part-time posts sanctioned for each Centre of the Faculty.

Except in the Law Faculty, unless otherwise specified, the qualifications for part-time teachers will be the same as those prescribed for the regular teachers of the University.

In the Faculty of Law, no person shall be eligible for part-time appointment unless he is enrolled as an Advocate of a High Court and has actually practised at the Bar for not less than 5 years."

31. The Delhi University appointed a Committee to submit to report on the complaints against the teachers of the Law Faculty of the Delhi University taking recourse to law practice. The said Committee consisted of Professor Andre Beteille, the then Professor of Delhi School of Economics and Professor K. R. Sharma of the Faculty of Law, University of Delhi. The report dealt with the nature and duties of the work to be discharged by the Law teachers and also contained recommendations of the Committee, relevant portion of which is extracted below :—

"The activities of a number of law teachers in the University of Delhi have now come under scrutiny. The Bar Council no longer permits lawyers to enrol as members if they are already employed as full time University teachers. However, those already enrolled sometimes continue their practice in the Courts, ostensibly on the ground that their work in the courts does not interfere with their academic duties in the University. Here, the University of Delhi and just the Bar Council of India is an interested party. For if the terms of employment in the university prohibit practice in the courts of law, then the University of Delhi may take action even if the Bar Council of India is unable or unwilling to do so. At the same

time, it will be of advantage to both professions if the University of Delhi seeks assistance from the Bar Council of India who are in its employ. It should in turn offer reasonable assistance to the Bar Council in its actions against those of its members who are employees of the University.

There appears to be some ambiguity regarding the sense in which the phrase full-time employment is to be understood. From the view point of the legal profession, it might appear reasonable to permit lawyers practicing in the Courts to undertake some teaching, provided such teaching does not take up more than three hours in the day whether or not it is designated as full time or part time teaching; it is the time allowed to teaching and not the designation of the teacher that becomes the relevant criterion. From that point of view, a law teacher in the University of Delhi might argue that he is in fact not required to teach for more than three hours in the day, and that he should therefore be allowed to continue his practice in the Courts and to retain his membership of the Bar Council. But this position will hardly appear as reasonable from the view point of the University. The obligations of a University teacher, though somewhat diffuse, are extensive in nature. They are certainly not confined to classroom lectures or to what is announced on the timetable for taught courses. The responsibilities of University teachers include teaching, research and administration.

The obligation of teaching are themselves diverse, including lectures, tutorials and seminars. Then there are the obligations of research which include one's own research as well as the supervision of the research required to be done by students. Finally, there are pastoral and administrative responsibilities of various kinds. Simply because such obligations cannot be put down on the departmental time-table for teaching, it does not follow that they do not exist or that they need not be honoured. Full-time University teachers are given a great deal of freedom and autonomy in the management of their time, but the understanding always is that they use that time for academic activities within the institutions of which they are members.

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The attention of the university authorities has been drawn to teachers in the Faculty of Law who are believed to be engaged in legal practice in the courts. As many as five names figured in the letter of 20 April, 1996 written by the Dean, Faculty of Law to the Vice Chancellor. While this Committee strongly disapproves of the neglect of their academic duties by full time teachers of the University of Delhi, it would urge the authorities to proceed with caution in taking action against defaulting teachers. The aim of the university should be deterrent rather than punitive. If a proper academic atmosphere is to be restored in the Faculty of Law, this cannot be done by taking summary action against a large number of its senior teachers. In any event, action should be initiated only in conformity with due procedure, and after seeking advice in each particular case from the standing counsel.

xxx            xxx            xxx            xxx

The University of Delhi has to proceed with caution, particularly because some of the cases are before the courts. The Bar Council of India has already initiated proceedings in one case, but the teacher whose name has been removed from its rolls by the Bar Council has gone on appeal. For the present, the best course for the university will be to persuade the Bar Council to initiate similar action against all teachers regarding whom there is a presumption that they are engaged in legal practice. Since the Bar Council has taken the first step in the matter, the university should offer its fullest cooperation, making all relevant information available to it. For the future, it should seek to ensure before making any fresh appointment, that the person being offered an appointment is not going to be simultaneously engaged in practice in the courts. It will set a very healthy precedent if the University of Delhi acts in all such matters in close co-operation with bodies concerned with the maintenance of standards in such professions as law, medicine and management."

32. Reference was also made to the provisions of S. 33-A of the Advocates Act which was brought in by way of an amendment suggested by the Bhagwati Committee, which reads as follows :—

"Section 33A- Legal Aid by law Teachers

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and Students".

"Notwithstanding anything contained in the preceding section, the following categories of persons may appear in any court or tribunal on behalf of any indigent person, if the person on whose behalf an appearance is to be made has requested in writing to the effect :—

(i) Teachers of a law school which provides full time instruction for the professional LL.B. degree and which maintains a legal aid clinic as part of its teaching programme where poor persons receive legal aid, advice and related services;

(ii) Students of third year LL.B. class of law school as aforesaid who are participating in the clinics activities and who have been certified by the Dean/ Principal of the law school under rules made therefore by the law school."

33. During the course of arguments reference and reliance was placed by the parties on various decisions of the Supreme Court. Some of the decisions thus referred to relate and deal with various orders passed by the State Bar Councils and, therefore, are relevant to understand the power and jurisdiction of the State Bar Council and Bar Council of India.

34. Reference was made to the decision of the Supreme Court in the case of Dr. Haniraj L. Chulani v. Bar Council of Maharashtra and Goa, reported in 1996 (3) SCC 342 : (AIR 1996 SC 1708). While rendering the aforesaid decision the Supreme Court held thus at page 1715 of AIR :—

"Thus, from the pre-entry point to legal profession till the exist point from the legal profession, the Bar Council of India and the State Bar Councils monitor the career of the legal practitioner. Section 49(1)(ag) when read with S. 24 of the Act confers wide powers on the Bar Council of India to indicate the class or category of persons who may be enrolled as advocates which power would include the power to refuse enrolment in certain circumstances. The obligation to maintain the dignity and purity of the profession and to punish erring members under the Act carries with it the power to regulate entry into the profession with a view to ensuring that only profession oriented and service oriented people join the Bar and those not so oriented are kept out. The Act itself envisages the State Bar Councils who



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are the elected peers of advocates themselves to lay down the standards for the professional conduct and etiquette. That would naturally bring in its wake the power to regulate entry to such a noble profession. As the power to make rules is entrusted by legislature to the chosen representatives of legal practitioners themselves who would be alive to the requirements of the State concerned where the Bar Council functions and the needs of the litigating public residing in the State in the light of the set-up of courts in the States concerned, it cannot be said that the power is in any way unfettered or uncanalised so as to amount to total effacement of legislative control. Sufficient guidelines are laid down by the legislature itself while conferring such powers on the State Bar Councils. The guidelines flow from the nature of the profession to which admissions are to be given, the selection of the chosen representatives of the profession to be the recipients of such power and the requirements of the statute itself laying down the conditions for regulating the professional conduct of advocates as discernible from various provisions of the Act and the rules framed by a Central Bar Council itself for the guidance of all the State Bar Councils functioning in the country which are entrusted with the task of regulating the conduct of legal profession throughout the country under the supervision and guidance of Central Bar Council. The conditions which the State Bar Councils can lay down by rules must be conditions which would be germane to the high and exacting standards of advocacy expected of the new entrants to the fold of the profession. Implicit in the conferment of such rule-making power is the guideline laid down by the legislature itself that the conditions must be commensurate with the fructification of the very purpose of the Act of putting the profession of advocates on a sound footing so that the new entrant concerned can well justify his role as an officer of the Court admitted to the fold of the noble profession to which he seeks his admission. Any conditions laid down by the State Bar Councils for fructifying this laudable object of legislature would remain germane to the exercise of this power and can well be said to be logically flowing from it."

The impugned rule restricts entry of a person who is otherwise qualified for being enrolled as an advocate if he is already car-

rying on any other profession. Though a citizen of India having obtained the qualification required for being enrolled as an advocate can legitimately aspire to be enrolled as an advocate but his aforesaid right is fettered by the impugned rule framed by the State Bar Council.

It is for ensuring full-time attention of legal practitioners towards their profession and with a view to bringing out their best so that they can fulfil their role as an officer of the court and can give their best in the administration of justice, that the impugned rule has been enacted by the State Legislature. It, therefore, cannot be said that it is in any way arbitrary or that it imposes an unreasonable restriction on the new entrant to the profession who is told not to practise simultaneously any other profession and if he does so to deny to him entry to the legal profession. It is true that the rule of Central Bar Council does not countenance an advocate simultaneously carrying on any business and it does not expressly own upon any simultaneous profession. But these are general rules of professional conduct. So far as regulating enrolment to the profession is concerned it is the task entrusted solely to the State Bar Councils by the legislature. If any person professing any other profession is permitted to join the legal profession having obtained the Degree of Law and having fulfilled the other requirements of S. 24, then even chartered accountants, engineers and architects would also legitimately say that during court hours they will practise law and they will simultaneously carry on their other profession beyond court hours. If such simultaneous practices of professionals who want to carry on more than one profession at a time are permitted, the unflinching devotion expected by the legal profession from its members is bound to be adversely affected. If the peers being chosen representatives of the legal profession constituting the State Bar Council, in their wisdom, had thought it fit not to permit such entries of dual practitioners to the legal profession it cannot be said that they have done anything unreasonable or have framed an arbitrary or unreasonable rule."

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...ive which includes right to livelihood ... it lays down as follows :—

... Though right to live includes right to livelihood, but that right is not denied to a person (appellant) who is already a professional carrying on the profession of a medical practitioner. He wants to have a second string to his bow. He wants simultaneously to be permitted to practise law with a view to earn additional or more livelihood. So far as his aforesaid demand is concerned the impugned rule requires that unless he gives up that other practice and joins the legal profession wholeheartedly he cannot be permitted to enter the legal profession. That rule cannot be said to be laying down a procedure not established by law. On the contrary that procedure has been found to be well sustained under Article 19(1)(g) read with Article 19(6). Once that conclusion is reached the absolute requirement of Article 21 would be out of the way. Appellant cannot be said to have been deprived of his right to livelihood by pursuing two professions, contrary to any established procedure for law. Consequently the impugned rule cannot be faulted on the touchstone of Article 21."

36. Reference may also be made to the decision of the Supreme Court in Satish Kumar v. Bar council of H.P. reported in (2001) 2 SCC 365 : (AIR 2001 SC 509). In the said decision Rule 49 of Part-VI to which reference is made above came up for interpretation before the Supreme Court and in that context it was held as follows :—

"Rule 49 of Pt. VI, Ch. II, Section VII of the Bar Council of India Rules has a specific purpose to serve when it states that an advocate shall not be a full time salaried employee of any person, Government, firm, corporation or concern. Section 24(1) of the Advocates Act specifically states that a person in addition to satisfying other conditions has also to satisfy the provisions of the Act and the Rules. In other words, the Rules made by the Bar Council under S. 218(2)(d) read with S. 24(1)(e) of the Act cannot dispense with obedience to Rule 49."

...ued, corresponding and expected performance of a noble profession. Its nobility has to be preserved, protected and promoted. An institution cannot survive on its name or on its past glory alone. The glory and greatness of an institution depends on its continued and meaningful performance with grace and dignity. Hence the provisions of the Act and the Rules made thereunder inter alia aimed to achieve the same ought to be given effect to in their true letter and spirit to maintain clean and efficient Bar in the country to serve the cause of justice which again is a noble one.

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Having regard to the plain language and clear terms of the said Rule 49, it is clear that para 2 of the rule is the nature of an exception to the general rule contained in the main and opening paragraph of it. The bar created in para 1 will not be applicable to Law Officers of the Central Government or a State or any public corporation or body constituted by a statute, if they are given entitlement under the rules of their State Bar Council. To put it in other way, this provision is an enabling provision. If in the rules of any State Bar Council, a provision is made entitling Law Officers of the Government or other authorities, the bar contained in Rule 49 shall not apply to such Law Officers despite they being full time salaried employees; not every Law Officer but only a person who is designated as Law Officer by the terms of his appointment and who by the said terms is required to act and/or plead in courts on behalf of his employer can avail the benefit of the exception contained in para 2 of Rule 49.

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It is an admitted position that no rules were framed by the respondent entitling a Law Officer appointed as a full time salaries employee coming within the meaning of para 3 of Rule 49 to enrol as an advocate. Such an enrolment has to come from the rules made under S. 28(2)(d) read with S. 24(1)(e) of the Act.



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having wide ramifications are required to be dealt with and answered.

45. Having held thus, we may now proceed to examine the issues that arise for consideration on merits of the case. Reference is made to the provision of Section 2 (1) (a) of the Advocates Act, 1961 which defines the term "advocate" meaning an Advocate entered in any roll under the provisions of the said Act. Rule 103 of the Rules framed by the Bar Council of Delhi has been extracted above. In the aforesaid rule it is provided that any person either in part-time or full time employment cannot be enrolled as an advocate but under the proviso it is provided that a part-time teacher of Law could be admitted as an advocate. Therefore, under the aforesaid provision a part-time Law teacher could be enrolled as an advocate but no such privilege or benefit is available to a full time Law teacher.

46. Strong reliance was placed by the respondent-Full time Law teachers on the provisions of Advocates rights to take up Law Teaching Rules, 1979 (hereinafter referred to as "the 1979 Rules"). The said provisions are also extracted hereinabove. A bare reading of the said Rules indicate that the said rule uses the terminology "advocates" and deals with the right of practicing advocate to take up law teaching. By virtue of the aforesaid provision an advocate is empowered to take up law teaching provided the same does not exceed three hours a day. Therefore, the said rules clearly establish that the same are applicable and come into operation post enrollment and have no application to a person prior to his enrollment as an advocate. It was sought to be contended by all the law teachers that a person can combine law teaching and law practice simultaneously provided law teaching does not exceed three hours a day. It was submitted by them that after adaptation of the aforesaid rules, a lawyer could take up full time law teaching in regular scale of pay and, therefore, the converse is also possible and, therefore, a Law teacher could also be enrolled as an Advocate. However, on proper reading of the said provision would make it crystal clear that such an interpretation is not only fallacious but also absurd. It is settled law that an interpretation which leads to absurdity should always be avoided.

47. It is also settled law that when the

provisions of a statute is plain, clear and unambiguous, no word could be added to such a plain wordings of the statute nor it is permissible to add words into it which are not there. In this connection reference may be made to the decision of the Supreme Court in Union of India v. Deoki Nandan Aggarwal, reported in AIR 1992 SC 96 wherein it is held as follows at page 101 :-

"It is not the duty of the Court either to enlarge the scope of the legislation or the intention of the Legislature when the language of the provision is plain and unambiguous. The Court cannot rewrite, recast or reframe the legislation for the very good reason that it has no power to legislate. The power to legislate has not been conferred on the Courts. The Court cannot add words to a statute or read words into it which are not there. Assuming there is a defect or an omission in the words used by the Legislature the Court could not go to its aid to correct or make up the deficiency. Courts shall decide what the law is and not what it should be."

48. Again in the decision in State of Kerala v. Mathai Verghese, reported in AIR 1987 SC 33 the Supreme Court has held that at page 35 :-

"In interpreting the provision the exercise undertaken by the Court is to make explicit the intention of the Legislature which enacted the legislation. It is not for the Court to reframe the legislation."

49. The Supreme Court in State of Maharashtra v. Nanded-Parbhani Z.L.B.M.V. Operator Sangh, reported in 2000 (2) SCC 69 : (AIR 2000 SC 725) has held that if the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense.

50. In a very recent decision of the Supreme Court in Dental Council of India v. Hari Prakash, reported in 2001 (8) SCC 61 : (AIR 2001 SC 3303) it was laid down by the Supreme Court that the intention of the legislature is primarily to be gathered from the language used in the statute. It was further held that when the words used are not ambiguous literal meaning is to be applied then what is not included by the legislature cannot be undone by adopting the principles of purposive interpretation.

51. When in the context of the aforesaid decisions the wordings used in the Notifica-



issued by the Central Government is... it would make it explicit that under the... notification a right is given to practicing... advocate to take up law teaching but no such... parallel right is given to teachers of law to... be enrolled as advocates. The wordings used... in the aforesaid provisions is plain and un-... ambiguous and requires no addition of... words to the said statute. The intention of... the legislature is also clear and apparent... and, therefore, the Court would not proceed... to reframe the legislation by giving a mean-... ing which the respondent teachers seek to... give.

52. It is true that the course of law par-... ticularly the LL.B. course being a profes-... sional course, there is a necessity of asso-... ciation of and guidance of the Advocates to... the law students so as to enable such stu-... dents to gain practical experience and to... acquire Court craft and professional skills. But at the same time the obligation of the... teaching faculty to the students cannot be... ignored. There are several facets of teach-... ing namely, delivering lectures, taking tuto-... rials and seminars. Over and above the... teaching Faculty also has an obligation of... doing research which includes one's own... research as well as supervision of research... required to be done by the students. Besides... there are other responsibilities to be dis-... charged by a teacher like, administrative... responsibilities etc. In order to give an ex-... posure to the students undergoing the law... course to acquire some practical experience... permission is granted to lawyers practicing... in the Courts to undertake such law teach-... ing provided such teaching does not take... up more than three hours a day.

53. It was argued by the law teachers... that they are in fact not required to teach... for more than three hours in a day and that... they are, therefore, eligible to practice in the... Courts and to retain their membership of... the Bar Council. When the statute does not... by itself permit such a situation and when... Rule 103 has specifically prohibited full time... law teachers from enrolling as advocate, no... such permission could be granted to a full... time law teacher to be enrolled as an advo-... cate. The aforesaid interpretation is also in... consonance with Statutes, Ordinance and... the Resolutions adopted by the Delhi Uni-... versity and the University Grants Commis-... sion. Since both Rule 103 of the Delhi State... Bar Council Rules and Rule 3 of the Rules

framed by the Central Government... in two distinct and different fields and... late to different set of persons, there is no... repugnancy as sought to be submitted by... the full time law teachers and, therefore, the... said contention is rejected. It is also worth-... while to mention at this stage that the va-... lidity of the 1979 Rules is not under chal-... lenge before us. Therefore, we are to decide... this matter proceeding on the basis that the... said Rules are valid and are applicable to... the set of persons who are specifically men-... tioned in the said Rules. No deviation or... addition is permissible to the clean and the... plain intention and meaning. Therefore, we... also hold that reliance by the full time law... teachers on the said Rules to advance their... cause is misplaced.

54. The service conditions of full time... teachers of the Delhi University are incor-... porated in the Contract of Service and, there-... fore, they are statutory in nature and they... are binding on the teachers. Reference is... already made to Clause 5 of the Ordinance... which provides that a full time teacher of... the Delhi University is required to devote... his time only to teaching and research in... the University and, therefore, a full time... teacher cannot undertake any other profes-... sional activity, such as practising law as an... advocate. The University which is arrayed... as one of the respondents in the present... cases has specifically stated in the counter... affidavit filed by it that the University has... not granted any permission to full time... teachers either in the Law Faculty or in any... other Faculty to practice as a Lawyer and... that one Mr. N. S. Bawa was granted a very... limited permission to appear in the case of... Riot Victims of 1984. The averments in the... Public Interest writ petition disclose that... request made by the members of the Law... Faculty of Delhi that in legal aid cases teach-... ers of the Law Faculty may be permitted to... appear in Court was considered by the Ex-... ecutive Council of the Delhi University and... it was rejected by the Executive Council... which is the final administrative Body of the... University. The same position was again re-... iterated by the University in a communica-... tion to all the teachers dated 3-11-1995. It... is, therefore, the specific stand of the Delhi... University that no full time teacher of the... Delhi be he or she is in the Law Faculty or... in any other Faculty of the University is not... entitled to practice as a lawyer as long as he



is a full time teacher in the University. If such a privilege is granted to the law teacher to be enrolled as an advocate, there could be no reasonable ground to deny the same privilege to other Faculty Members of other departments of the University. The aforesaid stand of the Delhi University is found to be valid and reasonable. Under the 1979 Rules an Advocate is permitted to take up law teaching based on the number of hours of teaching being undertaken. The Committee constituted by the University upon enquiry has held that the obligation of a teacher, though somewhat diffuse but is extensive in nature which include not only class room teaching but also research and administration. It was held that such obligations even though cannot be put down to departmental time table the same, however, exists and such time should be included and read into their daily routine. The directions of the University Grants Commission are based on the aforesaid analogy when it conveyed the decision that in order to promote quality education full time law teachers would not be permitted to enrol as members of the Bar entitling them to full time practice in law. Even the permission granted to such teacher to appear and represent in social action/public interest litigation is in the nature of legal aid and social activity and not as a lawyer.

55. In our considered opinion, the same would not by itself empower or enable a full time teacher of the Delhi University to practice as a Lawyer. Even in a case where enrolment is granted by the Bar Council and thereafter the advocate seeks to take up law teaching, the same could be permitted only within the parameter of the 1979 Rules read with the University Statutes and Ordinance.

56. The University Grants Commission also by its letter dated 7-12-1995 informed the Registrar of the Delhi University that full time law teachers in University Departments and affiliated Law Colleges would not be permitted to enrol as members of the Bar entitling them to be a full time lawyer but they should be allowed and permitted to appear in Courts for social action or public interest litigation matters as well as legal aid/public interest litigation connected therewith. The aforesaid permission is restricted and limited to the aforesaid extent only and was allowed to give impetus to the concept of legal aid and making the students

of law also aware of the aforesaid concept. The Report of the Committee which was adopted by the Executive Council of the Delhi University on 19-4-1998, the extract of which is quoted hereinbefore would also support the same position.

57. In that view of the matter we hold that the interpretation sought to be given by the respondent-Faculty Members to Rule 103 and to the 1979 Rules cannot be accepted. We also hold that the said teachers are bound by the provisions of Rule 103 of the Bar Council of Delhi Rules and the Rules of 1979 are neither applicable to their cases nor they can seek assistance from the said Rules unless the rules framed by the Competent Authority allow the privilege specifically. No such privilege could be claimed by way of implication or on the basis of surmises or conjectures. Therefore, no such right or privilege could be claimed by the full time law teachers of the Delhi University which is not permitted under the rules.

58. Reference could also be made to Rule 49 of Chapter II, (Standards of Professional Conduct and Etiquette) Section VII (Restrictions on other employments) of the Bar Council of India Rules which provides that an advocate shall not be a full time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practise, and shall, on taking up any such employment, intimate the fact to the Bar Council on whose roll his name appears and shall thereupon cease to practice as an advocate so long as he continues in such employment.

59. We are also of the considered opinion that the Resolution adopted by the Bar Council of India in 1996 under Resolution No. 108 correctly lays down the law and the practice and we hold that no objection could be taken as against the said Resolution. The said decision is in consonance with the observations of the Supreme Court in the decision of Dr. Hanraj L. Chulani (Supra). Therefore, if the interpretation sought to be given by the full time law teachers are accepted the same would not only run counter to the statutory legal position but the same would also be contrary to the law of the land.

60. In terms of the said Resolution the Bar Council of India has proceeded to take suo motu action and has directed all the



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Bar Councils to take necessary steps to implement the aforesaid Resolution. The Bar Council of India proceeded to take suo motu action initiating removal proceedings against such full time salaried teachers of the State Bar Councils who were subsequently enrolled as advocates by an erroneous interpretation of the 1979 Rules. It was held by the Bar Council of India that full time law teachers were enrolled as advocates by misinterpreting the rules made by the Central Government under Section 49A of the Advocates Act, 1961. In 1996 the Bar Council of India has tried to rectify the mistake by removing the names of such persons who are full time salaried law teachers and who were enrolled as Advocates overlooking the specific provisions of Rule 103 of Bar Council of Delhi Rules and by misinterpreting the provisions of the 1979 Rules.

61. It was contended that no such power could be exercised by the Bar Council of India and that also after expiry of about 20 years from the date of enrolment. Counsel appearing for the Bar Council of India, however, submitted that such a power could be exercised by the Bar Council of India under the provisions of Section 48A of the Advocates Act, 1961.

62. In the foregoing discussions it is held that no full time law teacher drawing regular salary from the University could enroll himself as an advocate. Such full time teachers were allowed to take enrolment by the State Bar Council misinterpreting the provisions of the 1979 Rules. The said full time law teachers were not eligible to be enrolled as an advocate and, therefore, enrolment itself was clearly contrary to Rule 103 of the Rules. When such persons who suffered a bar at the threshold are given enrolment in violation of and contrary to rules, they cannot take up a plea of estoppel. In this connection reference may be made to the decision of the Supreme Court in *Satish Kumar Sharma v. Bar Council of Himachal Pradesh* reported in 2001 (2) SCC 365 : (AIR 2001 SC 509), wherein it was held as follows at page 517, of AIR :—

"The contention that the respondent could not have cancelled enrolment of the appellant almost after a decade and half and that the respondent was estopped from doing so on the principle of promissory

estoppel, did not impress us for the simple reason that the appellant suffered threshold bar and was not eligible to be enrolled as an Advocate and his enrolment itself as clearly contrary to Rule 49 of the Rules in the light of the facts stated above. Hence neither the principles of equity nor promissory estoppel will come to the aid of the appellant."

63. It is also a settled law that there cannot be any estoppel as against statute to defeat the provisions of law. That is exactly what was laid down by the Supreme Court in *Indira Bai v. Nand Kishore*, reported in (1990) 4 SCC 668 : (AIR 1991 SC 1055) wherein it was held as follows :—

"There can be no estoppel against statute. Equity, usually, follows law. Therefore, that which is statutorily illegal and void cannot be enforced by resorting to the rule of estoppel."

64. As the full time law teachers suffered a threshold bar to get themselves enrolled as advocate the enrolment given to them by the State Bar Council was per se void and illegal and contrary to Rule 103 of the State Bar Council Rules and, therefore, the Bar Council of India acted within its jurisdiction in cancelling such enrolment which was done in violation of the extent rules.

65. A power of revision is vested in the Bar Council of India which is a power of general superintendence over the powers exercised by the State Bar Council. As and when the Bar Council of India is of the opinion that a particular action is taken by such a State Bar Council without any proper sanction of law, the same can always be corrected and rectified by exercising the powers of Revision by the Bar Council. A similar plea raised by the aggrieved person in the case of *Satish Kumar Sharma* (supra) was rejected by the Supreme Court holding that such a contention that the respondent could not have cancelled enrolment after a decade and half is not acceptable. Section 26 of the Advocates Act may not be strictly applicable to the facts of the present cases but if such action could be taken by the Bar Council of India in exercise of its other statutory powers the same would be held to be valid.

66. In terms of the aforesaid observations and directions all the writ petitions



stand disposed of holding that the full time law teachers of the Law Faculty of the Delhi University could not have enrolled themselves as advocates and, therefore, enrolment given to the said teachers by the State Bar Council was per se void and illegal and any action taken by the Bar Council of India to rectify the said mistake in exercise of its powers cannot be said to be bad or illegal. We also hold that a part time teacher of law could be enrolled as an advocate and also that an advocate after being enrolled could take up part time law teaching. We find no fetter put to the aforesaid position. Interim order stands vacated.

However, so far the issue relating to the rights of the practising advocates to take up full time law teaching, post enrolment, is concerned, it is necessary to mention that in none of the present petitions the validity of Rule 3 of the Advocates (Right to Take up Law Teaching) Rules, 1979 was challenged. Therefore, the aforesaid issue specifically does not fall for our consideration and there is no scope for deciding the aforesaid issue in these writ petitions. Besides, none of such enrolled advocates, who have been appointed as full time law teacher subsequently, was represented and was heard by us. Therefore, the said issue is left open and not decided in the present writ petitions. The said issue could be decided in an appropriate case if and when validity of such rules is challenged, involving such category of person(s). However, in the facts and circumstances of the case, the parties shall bear their own costs.

Order accordingly.

**AIR 2002 DELHI 458**

**FULL BENCH**

S. B. SINHA, C. J.; D. K. JAIN AND  
MANMOHAN SARIN, JJ.

Smt. Ram Rakhi, Petitioner v. Union of  
India and others, Respondents.

C.W.P. No. 7648 and 7580 of 2000, D/-  
8-5-2002.

**(A) Land Acquisition Act (1 of 1894),  
Ss. 4, 17 — Acquisition of land — Notifi-  
cation was issued pursuant to direction  
by High Court — Said direction/order was**

GT/HT/D551/2002/VNP/USA/17832/2002

**issued by High Court in Criminal Writ  
Petition — Landowners, petitioners were  
not parties in the said petition — Said  
order of High Court would not be binding  
upon petitioners, being passed without  
jurisdiction — Further, record produced  
not showing independent application of  
mind on part of acquiring authority — No  
ground for invoking emergency clause —  
Said notification, held, liable to be set  
aside.**

**Crl. W.P. No. 604/00, D/- 24-10-2000  
(Del), Overruled.**

**Constitution of India, Art. 226.**

In the instant case the petitioner had purchased 149.5 sq. yds. of land in the year 1958. A notification under S. 4 was issued for 1 bigha 19 biswas on 13-11-1959; whereafter, a declaration under S. 6 was also issued on 1-11-1966. About 26 acres of land at the rear of the petitioner's plot, had been allotted to Delhi Police by Delhi Development Authority (DDA) in October 1980. A portion of the petitioner's premises was allegedly demolished by Delhi Police, while erecting its boundary wall, leading to the petitioner filing a suit. The DDA, however, later on certified that the said plot belonged to the petitioner and not to the police authorities. In the meantime, having regard to the fact that no award was made, the notification dated 1-11-1966 lapsed on 23-9-1986, thereafter the DDA made several requests to the Land Acquisition Authorities to acquire the land afresh. The suit filed by the petitioner as mentioned hereinabove was decreed by judgment and decree dated 25-11-1992. On or about 7-7-2000 a third party filed a Criminal Writ Petition wherein, by an order dated 24-10-2000, a Division Bench of the High Court directed DDA to take steps urgently to acquire the petitioners land and further directed them to take possession thereof and hand over the same to the police authorities on or before 30-11-2000. The Court further directed invocation of urgency provisions as contained in S. 17 (4) of the Act. The said order was passed on a day, when counsel for the petitioner therein was not present. The said order does not record any reason. Nothing was placed to show a nexus between the said order and the prayer made in the writ petition. Allegedly, in terms of the said direction, a notification for acquisition was issued on 29-11-2000 in respect of