

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. OF 2020

DISTRICT: MUMBAI, PUNE

In the matter of Articles 14, 19
& 226 of the Constitution of
India

AND

In the matter of Disaster
Management Act, 2005 and
Epidemic Diseases Act 1897

AND

In the matter of U.G.C.
guidelines for conduct of exams
of final year/ semester dated

27/04/2020 and revised guidelines dated 6/07/2020

AND

In the matter of BCI circular dated 27/05/2020 and Press release dated 9/06/2020 regarding conduct of final year/ semester examinations in law universities and colleges

AND

In the matter of extension of benefits of State Government G.R. dated 19/06/2020 to professional courses students of final year in the State of Maharashtra

1. Avirup Mandal

.....Petitioners

Versus

1. State of Maharashtra
Through Secretary
Higher & Technical Education Department
Mantralaya, Mumbai
Email id: writcellas@gmail.com
2. Union of India
Through Ministry of Home Affairs,
National Stadium, India Gate,
New Delhi- 110001.
3. Ministry of Human Resources Development,
Through its Secretary
Department of Higher Education,
Mumbai- 400058.
4. University Grants Commission
Through its Secretary having office at
Bahadur Shah Zafar Marg, New Delhi-110002
secy.ugc@nic.in
webmaster.ugc.help@gmail.com
5. Bar Council of India
Through its Secretary having office at
21st Rouse Avenue, Institutional Area,
Near BalBhavan, New-Delhi

Email Id: info@barcouncilofindia.org
bciinfo21@gmail.com

6. University of Mumbai
Through its Registrar having office at
Fort, Mumbai-400 001
7. Savitribai Phule Pune University
Through its Registrar,
Ganesh Khind Road, Pune- 411007.

.....Respondents

**TO,
THE HON'BLE CHIEF JUSTICE AND
OTHER HON'BLE PUISNE JUDGES OF
THIS HON'BLE HIGH COURT OF
JUDICATURE AT BOMBAY**

**HUMBLE PETITION OF THE
PETITIONERS ABOVE NAMED**

MOST RESPECTFULLY SHEWETH:

1. The Petitioners are law abiding citizens of India and residents of India having place of residence at address mentioned in cause title above. Being aggrieved by the revised "guidelines" dated 6th July, 2020 and O.M. of even date issued by Respondent No.2 herein ("MHRD" in brief) making it 'compulsory' for all Universities to conduct final year/semester examination before 30/09/2020 as also the Notification dated 09/06/2020 by the Bar Council of India for law colleges throughout the country, the petitioners are invoking the extraordinary writ jurisdiction of this Hon'ble Court seeking directions against the Respondents in terms of *inter alia* cancellation of final year/semester

examinations, early declaration of results by devising appropriate method/ formula, issuance of degree certificates, etc. Copy of the impugned UGC Guidelines dated 6/07/2020 and impugned O.M. dated 06/07/2020 issued by MHRD, as also Notification dated 09/06/2020 by the BCI, are annexed herewith and marked as **Exhibit “A”, “B” and “C”**, respectively.

2. Petitioners are LAW students of final year of various educational institutions affiliated to Universities of Maharashtra and filing the instant petition in light of the grave pandemic situation and conflicting and inconsistent decisions on final year examinations by the Central and State Governments and other statutory authorities which will be affecting approximately 9 to 10 lakh students in their final year in various Universities of Maharashtra. The relevant particulars of the petitioners are annexed herein as **Exhibit “D”**. The present petition is filed in representative capacity espousing cause of thousands and lakhs of students who are studying in final year degree programs across the State. The petitioners conducted online survey and circulated the proposal to file petition seeking cancelation of final year/ semester exam in view of risk posed by Covid-19 pandemic and till date have obtained support of 474 students, details of whom the petitioners crave leave to place on record, when required.
3. That the petitioners approaching this Hon’ble Court are students of extremely high academic and co-curricular calibre. That petitioner no. 1 has a high average marks of all previous semesters to be that of First

Class and has also been a recipient of the prestigious merit scholarship known as the Venkiteswaran Scholarship and has won numerous national level moot court competitions and debate competitions and most recently in the national rounds at the Jamia Millia Islamia National Moot Court Competition which declared his team as a winner and him as a Best Speaker (Male). That petitioner no. 2 has high academic records with an average score of 55% and has topped in two subjects in his college and has participated in numerous prestigious moot court competitions and has also won Madhukar Narvekar Moot Court Competition along with numerous other achievements in the field of cricket. The petitioner no. 3 has high academic records and has represented his college in numerous sports and has been declared winners in swimming competitions in NLS, Bangalore (Silver Medal) and NLIU, Bhopal (Bronze Medal). Petitioner no. 4 has extremely good academic records and has won the prestigious Venkiteswaran Scholarship and has also been a winner at numerous tournaments where he has represented his college in the sport of cricket. He has also been elected as the Sports Secretary at his hostel tournament - Jallosh for two consecutive years. Petitioner No. 5 is a sincere law student who is a rank holder at Savitribai Phule University, Pune and has been an avid mooter in numerous national level moot court competitions and national level mock trials and especially declared as winners at the Adv. Kayastha Moot Court Competition organized by NS Soti College of Law, Sangli and has been awarded as the Best Speaker at the Justice SB Mhase Moot Court

Competition, Ahmednagar. Petitioner no. 6 has consistently performed par excellence in curricular, co-curricular and extra-curricular activities wherein she has participated and won in numerous national and international debates and moot court competitions. Her aggregate of previous semesters is that of a first class and she has also held key leadership positions in various events and committees.

4. The material facts giving rise to the present petition are briefly stated as under:

a) The State of Maharashtra has the highest number of Covid-19 cases as of date in the country and situation in major cities like Mumbai, Pune, Thane wherein most of the sought after colleges are based, is comparatively more serious. In this situation, the petitioners have approached this Hon'ble Court on the ground that whether it is convenient to affect the larger sections of our population during the COVID-19 pandemic and particularly put the final year students' lives & health at risk on account of insistence of some authorities to go ahead with the exams at any cost (when the cost is to be largely suffered by students only).

b) In these circumstances, the Universities of Maharashtra postponed the exams of the students till the lockdown rules declared by the State and Central Government. Further, after the first lockdown students were informed

that their exams will be conducted in month of July, however, there was an increase in number of active cases and it was informed that exams will be cancelled.

c) Meanwhile, the four-member committee which included the Vice Chancellors of Mumbai University, SNDT Women's University, Shivaji University Kolhapur and Savitribai Phule Pune University was constituted to hold discussion with all stakeholders and submit report to the State to enable it to arrive at informed decision on conduct of examination. Suhas Pednekar, Vice Chancellor of Mumbai University, who was heading the committee, had asked Maharashtra Students Union (MASU) to submit their say. It appears that, the student union had conducted surveys, and based on same a report through email was submitted by MASU to the committee. Further, the State Committee also submitted a report to the Governor after considering all the circumstances and the lakhs of university students across the state were waiting for the universities to come up with a decision about their pending examinations of 2019-20 and beginning of the academic year 2020-21.

d) The Petitioner states that, they understand that the President of MASU was quoted as stating that "The students of all these universities are from both urban and rural areas. They wonder what will happen to their

academic year and cannot focus on their studies or on developing any other personal skill due to the environment of uncertainty. They want a decision soon. Further, a written request was sent by the MASU to the UGC authorities stating that they should scrap the examinations this year and declare the result as per the previous years' results and internal examination of this year. According to their survey, 83 per cent students wanted the examinations to be scrapped so that they can be relieved and focus on the next year's studies. Online examination is not feasible option for each and every student and offline examinations entail dangers of novel Coronavirus.” In such a scenario, they requested the State Committee to consider the students' difficulties. Additionally, also added in their report stating that 52 per cent students across the state said they are not having any online classes to complete their syllabus and said that while over 25000 students had attended the Online Vidyarthi Samvad, on Facebook and YouTube on April 30, over 1500 students responded via Google Forms.

- e) The University Grants Commission (UGC) released broad guidelines regarding the university examinations and academic calendar on 27th April, 2020. UGC Guidelines dated 27th April, 2020, relevant provisions are:

i. In Para 3, Page 4 - **“ Modes of Examinations”**

“Like the modes of teaching-learning, most of the universities follow the physical mode of examinations, with a few exceptions.... *Therefore, keeping in view the basic infrastructure available at the level of the institutions and accessibility of internet to the students, especially in remote areas, it is not feasible to uniformly adopt the online mode of examination at this juncture.*”

ii. At Page 5, **Guidelines on Examinations**

3. The universities may conduct Terminal / Intermediate Semester / Year examinations in offline / online mode, as per their Ordinances / Rules and

Regulations, Scheme of Examinations, observing the guidelines of “social distancing” *and keeping in view the support system available with them and ensuring fair opportunity to all students.....* This provision for intermediate semester examinations is only for the current academic session (2019-20) in view of COVID-19 pandemic, while maintaining safety and health of all the stakeholders and sanctity and quality of examinations.

iii. In Para 8, Page 10: **General Guidelines**

In view of the present scenario and future uncertainties:

- The universities may adopt and implement these Guidelines in a transparent manner by making alterations/additions/modifications/amendments to deal with particular situation(s) in the best interest of students, educational institution and the entire education system

Notwithstanding the above Guidelines regarding the resumption of session, conduct of examinations and commencement of next academic session, every university/ college has to ensure *that it is prepared in all respects to carry out the academic activities following necessary advisories/guidelines/directions issued by the Central/State Government, MHRD or UGC from time to time to prevent the spread of COVID-19.*

However, the abovementioned guidelines are advisory in nature and not having statutory force unlike Regulations framed under the Act after following the prescribed procedure. Hereto, annexed and marked as **Exhibit “E”**, is

the copy of the guidelines dated 29.04.2020 issued by the UGC.

- f) The Government of Maharashtra issued a Government Resolution on 19th June, 2020 and stated that students in various parts of Maharashtra will be required to travel for the presence in examinations. Further, the said GR mentions about the detailed procedure with regards to conduct of examinations which includes setting of question papers, making seating arrangements, checking answer scripts, making model answer keys, making the results, preparing the results and subsequent declaration requires a large number of staff support and manpower who may contract the virus and the same cannot at any instance be neglected. Therefore, the State Disaster Management Authority felt that the students, teachers, college and university staff, police and other ancillary staff can have their health be exposed to the virus which may prove to cause serious health issues. The said GR also refers to the meeting of State Disaster Management Authority dated 18th June 2020 wherein the subject of the conduct of examinations was placed before the Authority and the minutes of the meeting have been represented in the GR. The said exercise of power to decide and direct on this issue has been made specific reference to Section 18 of the Disaster Management Act of 2005 and also various other

guidelines were given and were asked to the Universities to comply with the directions of the said GR.

- g) The G.R. dated 19/06/2020 is issued by power / authority conferred to State government by Disaster Management Act, 2005 and Epidemic Diseases Act 1897. Being unprecedented pandemic situation of Covid-19, the provisions of The Maharashtra Public University Act, 2016 and UGC Act need to be seen in the view of the Disaster Management Act, 2005 and Epidemic Diseases Act 1897 and said Acts dealing with the Disaster Management would supersede the other legislations like UGC Act and the Maharashtra Public Universities Act. Extra-ordinary unforeseen situations call for extra-ordinary measures and the Government being the custodian of interest of students of the state, is duty bound to act in furtherance of their interest and to that end the issuance of the G.R. dated 19/06/2020 which cancels the examination of both the courses i.e. professional and non-professional courses is legal, justified and proper. The professional courses exams also stand canceled vide said G.R. however said decision is made subject to it being ratified by the Apex Regulatory bodies in the respective fields which are all central authorities. Assuming without admitting that, said G.R. only cancels exams of non-professional courses, still to that extent it is decision taken in the interest of those students

and hence perfectly valid. The petitioners are seeking parity treatment with the students of non-professional courses and seeking direction from this Hon'ble Court to the State Government and other authorities to extend benefit of said G.R. of 19/06/2020 to all the students in the State, professional course or otherwise hereto annexed and marked as **Exhibit "M"**.

h) The Bar Council of India (BCI) vide its communication dated 27th May, 2020 read with the Press Release dated 9th June, 2020 directed the Law Universities / Colleges across the country to conduct examinations for the intermediate Semester students after reopening of the Colleges/Universities and also directed to conduct examination of final year/ semester law students through online mode or other appropriate alternative method. Hereto annexed and marked as **Exhibit "F"** is the copy of the impugned exam guidelines dated 27.05.2020.

i) The UGC shockingly issued Revised guidelines dated 6th July, 2020 with regards to the examinations and academic calendar for the Universities in view of COVID-19 affirming that the Expert Committee report was considered and approved the same

i. In Para 3, page 1- *"In view of the emerging situation related to COVID-19 pandemic in India, it is important to safeguard the principles of health, safety, fair and equal opportunity for*

students.....UGC is constantly making efforts to address various issues related to teaching, learning, examinations, academic calendar etc. in the difficult times of COVID-19 pandemic.”

- ii. In Para 4, page 1- “ *The Commission approved the recommendations of the Expert Committee regarding conducting terminal semester(s)/final year(s) examinations by the universities/institutions to be completed by the end of September,2020 in offline (pen & paper)/online/blended (online+ offline) mode.”*
- iii. In Para 7, page 2 - “*It is reiterated that the Universities should give paramount importance to health and safety of students, faculty and staff and adhere to the Government protocols/guidelines related to COVID-19 while conducting the examinations.”*

From the abovementioned guidelines it is clearly seen that the revised guidelines of the UGC are in extension and continuation of the advisory guidelines on 29th April 2020 and hence, the same are also of the advisory nature, without statutory force and binding effect.

j) Apparently, to overcome said defect, the HRD ministry in hurried manner issued Office Memorandum on same date and made it compulsory to hold examination of final year/ semester in all the Universities and affiliated colleges in the country. The impugned OM seeks to circumvent the mandatory procedure prescribed in Statute to frame regulations which alone have binding effect. Such mode adopted by the MHRD is de-hors the UGC Act and cannot clothe a non-binding “guideline” with statutory character. The OM is therefore liable to be set aside and even otherwise is liable to be set aside for the very same reason that UGC guidelines of 6/07/2020 and BCI circular are liable to be set aside on the grounds set forth hereafter.

k) As per the news reports and other relevant sources, the Delhi Government has cancelled the final year/ semester exams of all courses and said decision was reported on 11/07/2020 in all leading news papers and electronic media. Likewise, the State of Orissa, West Bengal, Punjab, Rajasthan, Haryana and U.T. of Puducherry Governments have also announced cancellation of final year/ term exams of all courses – professional as also non-professional, with some exceptions in few cases. No distinction is sought to be made between students of professional and non-professional courses as regards conduct of exams is

concerned and rightly so. Notifications / news items in that regard pertaining to various State Governments, U.T.s are annexed herewith as **Exhibit “G”, (colly.)**.

- l) Further, in the backdrop of increase in number of cases related to COVID-19, Dr. A.P.J Abdul Kalam Technical University (APJAKTU) on 02.07.2020 approached the Uttar Pradesh State Government representing the health of the students to be given utmost importance and keeping in view of the same suggested to promote students considering the formula of assessment introduced by them and several news paper article which mentioned about the well known institutes like IIT Bombay and SRM (Institute of Science and Technology) are likely to cancel the exams. Hereto annexed and marked as **Exhibit “H”** is the copy of the notification and news paper articles.

- m) In the matter of ***Gulshan vs. State of Haryana & Ors.*** CWP/8358/2020, the High Court of Punjab & Haryana vide order dated 25/06/2020 while disposing of the petition, was pleased to take note of decision by the Director General Technical Education, Haryana (Panchkula) to cancel all the examinations in the State including the final year/ semester examination of all courses. Copy of order dated 25/06/2020 is annexed as **Exhibit “I”**.

n) The issue of conduct of the crucial Xth and XIIth standard board exams by ICSE & CBSE was before the Hon'ble Apex Court [***Amit Bathla & Ors. vs. CBSE & Anr.*** W.P. (Civil) No. 566 of 2020] in light of demand made by large number of students and / or parents of students considering the risk to life & health involved in conducting exams which were scheduled between 1st to 15th July, 2020. The examinations are spread over a number of days, which increases the risk of contacting virus and its spread manifold. It is worthwhile to note that, good sense prevailed ultimately and the two boards came forward with draft notifications canceling the exams altogether for both Xth and XIIth standard. No artificial distinction was made between X and XIIth students. The X and XII board exams as is common knowledge are the most crucial in the life of any student and considered to be the make or break of career as they determine the future career prospects of the Student and field of education. Even such important exams were rightly resolved to be canceled, keeping interest of the Student in mind. The Hon'ble Apex Court was pleased to take on record said draft notifications by CBSE & ICSE and disposed of the matter vide its Order dated 26/06/2020. Copy annexed as **Exhibit "J"**.

o) Very recently, the World Health Organization (WHO) has announced that the COVID-19 virus is likely spreading through the medium of air also and air-borne transmission could not be completely ruled out. The most recent scientific evidence has been published by the World Health Organization on 9th July, 2020 which states that Airborne transmission which is the spread of an infectious agent caused by the dissemination of droplet nuclei (aerosols) that remain infectious when suspended in air over long distances and time can happen in the present situation. Therefore, the precautions that are now required to be taken to reduce the number of cases of COVID-19 should be handled with utmost caution. Hereto annexed and marked as **Exhibit “K”** is the copy of the relevant extract of the latest WHO guidelines dated 09.07.2020.

5. The grievances of student community at large for objecting to conduct of examination, through any of the prescribed three modes, are in nutshell as under:

i. Insistence of the authorities concerned, in present circumstances, to hold the examination is nothing but like performing a ritual deemed necessary for award of degree. Ignoring the fact that the syllabus is not completed and even otherwise also in the available circumstances, it would deny level playing field esp. to

poor and rural students in the State, who face limitations narrated herein. No examination which is without level playing field can be said to be fair and correct assessment of “merit” & “quality” of students.

- ii. The amount of difficulties & accompanying stress that has to be suffered by the students of rural & town areas (not residing in the city) in terms of inter-district/ inter-state travel, accommodation arrangements for a period of exams which usually are spread over 7-10 days and also those of poor background who have to rely solely on availability of public transport, deny them a fair chance to compete with others in the exam and merit deduced from such an unfair competition cannot be regarded as fair assessment and would prejudicially affect their morale and future prospects.
- iii. Students who due to sudden lockdown left for hometown, and hoped to return after few days, found themselves stuck at their homes without all the books and study material to study and also those students who rely on Library facilities in college to study and cannot afford all books, are likely to suffer most in their preparations, if exams are conducted and they are permitted to travel only for exams.
- iv. If exams are to be conducted then arrangements of each of the students to reach exam hall have to be

made by respective State Government / local bodies keeping in mind the situation of Covid-19 in their State. Not all local authorities have sufficient, well-networked, good public transport system, like Mumbai or Pune city. This increases not only the financial burden on students who may have to travel longer distances to their respective exam centres but also increase their risk of getting infected. So, the final decision, of whether exam is to be held or not, is to be taken by the State Government only.

- v. The Central Government has not applied its mind and has no plans in place for the students who will be travelling to great distances from one part of the country to another and especially seek refuge in their hostels which have now been taken over by the State Government/ Local bodies for COVID-19 Quarantine Centres and other related purposes.
- vi. That the decision of the UGC as also the MHRD and MHA to conduct final year examinations have no consideration at all of the rural Maharashtra students who will be the hardest hit through the UGC's revised guidelines to conduct examinations by 30 September 2020. In view of restrictions on inter-district travel and also non-availability of cheap public transport like M.S.R.T.C buses, Trains or even private commercial

vehicles, it is difficult nay impossible for poor students to undertake travel only for exams to big cities. This aspect has received no consideration at all by the Petitioner / Central Government and/or UGC. The difficulties that would be faced by poor or middle class meritorious students from out of State or out of Country like Bhutan, who will have to travel great distances and would be most hit appear to have been completely lost sight of by the authorities while arriving at the decision to compulsorily conduct exams. The state-wise list of some students of the current final year batch of GLC is annexed as **Exhibit "L"**.

- vii. The fear of spreading COVID-19 infection to one's family members who are not stepping out due to the communicable nature of the virus is not entirely unfounded and no attempt made to address said issue. In the present circumstances, the decision exposes the lives of family members of students who are not stepping out to the virus through the possibility of the students being carriers. In fact, there is no planning to understand how the virus can now spread across the country to even villages from which students will be coming and thus, make further pressure on the rural medical infrastructure of this country and specifically that of Maharashtra.

- viii. The UGC guidelines dated 27/04/2020, further revised vide 6/07/2020, make it clear that the principle of social distancing should be strictly followed, however, considering the spike in number of Covid-19 cases in all districts in the State, the said principle is practically not possible / difficult to be followed in Maharashtra where number of final year students are more than 9 to 10 lakhs.
- ix. If examination is an essential service, so should be the conduct of classes for the courses on which examination is being sought to be conducted. Nearly no virtual classes were conducted during the pandemic for most of the colleges in Maharashtra which seriously interferes with the thought and poses serious questions on how examinations can be conducted without the classes being conducted in first place.
- x. That inviting lakhs of final year students to their institutions will be further exposing them to the virus. In such situations, even when one looks at the capital city of Mumbai, it is visible as to how difficult or even at times impossible to maintain physical distancing or social-distancing norms during travelling or commuting or living day to day lives.
- xi. In fact, the educational institutions which are of a composite nature like that of Government Law College,

Mumbai which has both residential and non-residential students will face severe risks of the infection spreading. Hostels are not yet operational as many of them have been acquired for Institutional Quarantine Centres or for other purposes related to the containment of COVID-19 virus.

- xii. The hygiene issues have not been addressed in depth. Train or Bus compartments cannot be sanitized after every stop of the local trains or metro stops or that of bus stops. Accordingly, the possibility of spreading the virus is at a really high level to the students.
- xiii. That no decision has been taken as to how will educational institutions deal with problems when one or more students test positive. No planning or consideration has been made as to what will happen as to whether examinations will continue after the same or the entire batch of students in the examinations will be quarantined. There is no consideration of how students coming from far-away districts of Maharashtra or that of other states or even countries like that of Bhutan will be treated in which manner.
- xiv. No policy decision exists as to how the students testing positive, if they are hostel residents, will cause the entire hostel students to be quarantined or not. Therefore, a lack of due planning is clearly visible and

what one is easily able to imagine is a political tussle wherein student lives are not being considered and kept at the Centre.

- xv. For those who have not received any job offers, the present decision only delays the degree certificates to be given to the final year students. Therefore, the fear of losing out on job opportunities due to the inconsistency of Government decisions should be at once put to an end.
- xvi. That if the exams are held it will result in delay in declaring results of said exams therefore the final years students will now lose the opportunity to apply for higher education in other institutions within or outside the state of Maharashtra or outside the country. It is pertinent to note that, those students who are willing to apply for universities abroad would be required to apply as early as possible along with their Degree Certificates and requisite transcript of marks.

6.

GROUND S

- A. The very existence and purpose behind education system and also conduct of examination is in the interest of students, who are the future of the country. The interest of students should thus be central & paramount to all decision making process and any decision, policy or otherwise, which

runs contrary to the interest, well-being, health, safety and life of students, is liable to be struck down for that reason alone.

- B. The impugned decisions in making conduct of exams compulsory on the States, shows scant respect and regard to the principle of Federalism which is basic feature of our Constitution and particularly in view of the fact that Covid-19 pandemic has affected different states to significantly varying extent, imposition of uniform decision, without considering the ground reality in each state is arbitrary, irrational, unjust, unfair and in violation of Article 14 of the Constitution of India.
- C. Once the stand is taken that the exams for intermediate years/ semesters are not required and without conducting such exams the students can be promoted based on previous academic record, the insistence only for Final year / semester exam to be conducted come what may and at any cost (to be suffered largely by students only), is unreasonable, baseless, arbitrary and contrary to logic, in addition to it posing threat to health, well-being and life of final year students.
- D. Insistence on conduct of examination, only for final year/ semester, with scant regard to health and life of the students who need to travel, make stay arrangements in a city (which may not be hometown and they have left their

rooms on rent), is in violation of Article 21 – Right to health, life and also Education of the students.

- E. The present matter is squarely covered by decision of the Hon'ble Apex Court in the case of [**Amit Bathla & Ors. vs. CBSE & Anr.** W.P. (Civil) No. 566 of 2020] and facts being similar the examinations ought to be canceled and G.R.s/ Notifications/ Circulars contrary thereto are liable to be quashed and set aside on that count.
- F. The examination is spread over number of days (7-10 days usually), which is not comparable to holding of single day entrance exams like NEET, IIT-JEE, etc. Further, for entrance exams no uniform benchmark is available whereas for final year/ sem exams, the same formula which is acceptable to the Respondent authorities for intermediate years is available and can be applied.
- G. That, the distinction made between the intermediate and final year students is arbitrary, having no rationale to the object sought to be achieved which is safety of students, unjust, unfair and illegal.
- H. That, the distinction made between the professional and non-professional courses final year students is arbitrary, having no rationale to the object sought to be achieved which is safety of students, unjust, unfair and illegal.
- I. It will be unjust with the students of the final year students of Professional and Non- Professional Courses allied with the

Universities and Colleges in the State of Maharashtra as there is non-availability of Internet services in rural areas of Maharashtra. The books and syllabus of the end-semester exams are also not able to access online as there is a poor internet services available in rural areas of Maharashtra.

- J. Even, the majority of the students who reside in rural and urban areas who belongs to lower socio-economic strata who cannot afford electronic gadgets for online classes and exams. It will be unfair to them with no access to the internet at all and this aspect is not properly borne in mind while issuing impugned guidelines and OM/ Circular. Only the city based privileged class appears to be kept in mind while arriving at the impugned decision.
- K. Most of the students are under financial stress due to family members losing their employment in the current situation and for the same students are incapable to travel from the other States, other countries and the rural areas of Maharashtra. UGC from time to time released their guidelines without considering the present COVID-19 situation, its effect on parents and students particularly lower strata and rural areas.
- L. The decision in the present case to conduct examinations lacks the rationale that the disease with which the government is dealing is a communicable one and now an

airborne disease which requires movement of individuals to be restricted.

- M. At this situation, most of the colleges and hostels in Maharashtra have been acquired for the treatments of COVID-19 patients and also used as a Quarantine centres which will become very difficult for the lakhs of students to appear for examinations where the areas of such places cannot be sanitized. Accordingly, the possibility of spreading the virus is at a really high level to the students and the same should be considered by this Hon'ble Court.
- N. The abovementioned States have considered the similar situations and directed the State Universities and colleges to consider the previous years/ semester marks for passing their students with regards to their respective degrees.
- O. The State Government of Maharashtra had realized that the digital penetration in the state is limited and extremely restricted to only certain urban pockets for which most students situated either in rural Maharashtra or in rural India or in places where only 2G internet services have been provided like that of certain places in the Union Territory of Jammu and Kashmir. Therefore, the State Government's decision is inclusive of all sections, whether poverty-stricken students or those who are marginalized whereas the UGC and Central Government decision is ex-facie against the

interest of these classes and is mockery of competition and merit evaluation.

5. In light of the above, the Petitioners have approached this Hon'ble Court under Article 226 of the Constitution of India, 1950, for appropriate reliefs in diligent manner without undue delay and laches. The Petitioners do not have any alternate or efficacious remedy except for this writ petition.
6. The appropriate court fee upon this petition is paid.
7. Petitioners undertake to supply the English translation of the vernacular language documents, as and when required.
8. Petitioners crave leave and liberty to add, alter, amend, delete or modify any of the contents, paragraphs, legal submissions or grounds etc., mentioned in this Writ Petition.
9. The Petitioners have not received notice of Caveat from the Respondent.
10. **Hence it is humbly prayed that:**
 - a) By issuance of writ of mandamus or any other writ, Order, direction of like nature, the Hon'ble Court be pleased to quash and set aside the UGC revised guidelines dated 06.07.2020 **(Exhibit "A")** r/w. O.M. dated 6/07/2020 issued by Ministry of Human Resources Development **(Exhibit "B")**, regarding the compulsory conduct of examinations of final year students;
 - b) By issuance of writ of mandamus or any other writ, Order, direction of like nature, the Hon'ble Court be pleased to quash and set aside the Bar Council of India Circular and Press release dated 27.05.2020 & dated 09/06/2020 regarding the conduct of examinations of final year law students;

- c) The Hon'ble Court be pleased to kindly grant the extension of benefits vide Government Resolution dated 19.06.2020 to the students of professional courses and particularly Law and necessary consequential directions to the Respondent State may kindly be given;
- d) To direct the Respondent State to declare the results of final year students (Professional and Non-Professional Courses) seeking appropriate devised formula in time bound manner and in any event on or before 15th August, 2020;
- e) Pending hearing and final disposal of the petition the Hon'ble Court be pleased to stay the operation, effect, implementation of the UGC revised guidelines dated 06.07.2020 (**Exhibit "A"**) r/w. O.M. dated 6/07/2020 (**Exhibit "B"**) issued by Ministry of Human Resources Development regarding the compulsory conduct of examinations of final year students;
- f) Pending hearing and final disposal of the petition the Hon'ble Court be pleased to stay the operation, effect, implementation of Bar Council of India Circular and Press release dated 27.05.2020 & dated 09/06/2020 regarding the conduct of examinations of final year law students;
- g) Ad-interim reliefs in terms of prayer Cl. (e) and (f) above may kindly be granted;
- h) Any other relief as the Hon'ble Court deems fit & proper in the facts and circumstances of the case, may kindly be granted in the favor of the petitioner.

AND FOR THIS ACT OF KINDNESS THE ABOVE NAMED PETITIONER SHALL DUTY BOUND EVER PRAY.

Date: 13/07/2020

Place: Mumbai

ADVOCATE FOR THE PETITIONERS