

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**(Original Jurisdiction)**

**WRIT PETITION NO. /2020**

**BETWEEN**

**1) Hruthik R**

S/o Ravi K,  
aged 20 years,  
Chokkanahalli, Yenigadale Post,  
Chinthamani Thaluk, Chikkaballapur District,  
Karnataka  
Pin- 563125

**2) Mohammed Kaleem**

S/o Nisar Ahmed,  
aged 21 years  
#2363, Kushal Nagar, K.G. Halli,  
Hanifia Mosque Road, 4<sup>th</sup> Cross,  
Bangalore-560045

**3) Amartya Choubey**

S/o Kalyani Kripa Choubey  
aged 20 years  
Nivedan Sadan, Road No.2,  
Shastri Nagar, Chandni Chowk,  
Kanke Road

**Petitioners**

**AND:**

**1. Bar Council of India**

Represented by the Chairman  
21, Rouse Avenue Institutional Area,  
Near Bal Bhawan, New Delhi – 110 002

**2. Karnataka State Law University,**

Represented by the Registrar

Navanagar, Hubballi,

Karnataka 560 025.

**3. State of Karnataka**

Represented by the Secretary to the Government,

Department of Higher Education,

M.S. Building, Dr. B.R. Ambedkar Veedhi,

Bangalore 560 001

**4. University Grants Commission**

Represented by its Chairman,

Bahadur Shah Zafar Marg,

New Delhi, Delhi – 110002

**Respondents**

**MEMORANDUM OF WRIT PETITION FILED UNDER  
ARTICLE 226 OF THE CONSTITUTION OF INDIA**

The Petitioners most humbly submit as follows:

- 1.** The Petitioners being highly aggrieved by the impugned Annexure-A Circular dated 09.11.2020 and Annexure – O circular dated 13.01.2021, issued by Respondent No.2, in so far as it imposes offline physical mode of examination for 2 semesters consecutively, from one of which the petitioners have already been promoted more than 6 months back as envisaged in Annexure – D “Guidelines on Examinations and Academic Calendar for the Universities in view of COVID-19 Pandemic and Subsequent Lockdown” and Annexure – F “UGC Revised Guidelines on Examinations and Academic Calendar for the Universities in view of COVID-19 Pandemic and Subsequent Lockdown” and extends the academic calendar of the intermediate semester law students of all Law

colleges affiliated to the 2<sup>nd</sup> Respondent, Karnataka State Law University, hereinafter called as KSLU, has approached this Hon'ble High Court seeking to invoke its extraordinary original jurisdiction under Article 226 of the Constitution Of India. A copy of the said impugned Circular dated 09.11.2020 and circular dated 13.01.2021, are produced and marked as **Annexure – A** and **Annexure – O** respectively in the instant Writ Petition.

### **STATEMENT OF FACTS**

- 2.** It is most respectfully submitted that the 1<sup>st</sup> petitioner is a 3<sup>rd</sup> semester law student at Ramaiah Institute of Legal Studies, Bangalore pursuing his B.A. L.L.B course, the 2<sup>nd</sup> petitioner is a 3<sup>rd</sup> semester law student pursuing his B.B.A L.L.B Course at the same college and the 3<sup>rd</sup> petitioner is a 5<sup>th</sup> semester law student pursuing his B.A. L.L.B course in Christ Academy Institute of Law. Christ Academy Institute of Law, Bangalore and Ramaiah Institute of Legal Studies, Bangalore are colleges affiliated to KSLU. The petitioners positively believe that a favourable outcome of the above writ petition will save the interest of the law student community at large.
- 3.** The law colleges affiliated to 2<sup>nd</sup> Respondent, Karnataka State Law University (Herein after referred as KSLU) started its operation for the 'EVEN' semester of 2019-2020 academic year on 10.02.2020 which was fixed to end in the month of July 2020, and conducted physical classes upto 13.03.2020 till its shutdown on 13.03.2020 due to COVID-19 pandemic. The Department of Higher Education, Government of Karnataka vide its order dated 13.03.2020, herewith produced and marked as **Annexure - B**, ordered the shutdown of college and universities across the state with effect from 14.03.2020.
- 4.** It is submitted that on 10.04.2020, the KSLU issued a Circular bearing No. KSLU/2020-21, directing all its affiliated law colleges to complete the remaining syllabus through various online modes. Hence, around 90% of the syllabus was covered through online teaching. The Circular dated

10.04.2020 is herewith produced and marked as **Annexure - C**. It is submitted that Annexure – C itself proves that KSLU has adequate and sufficient infrastructure and facilities even to conduct the classes through online method. Moreover, the 2<sup>nd</sup> respondent has NAAC ‘A’ Grade Accreditation on the ground also that it possesses adequate IT and physical infrastructure and facilities to conduct classes and examinations through online mode.

5. It is submitted that on 29.04.2020, the 4<sup>th</sup> respondent University Grant Commission (UGC) issued the “Guidelines on Examinations and Academic Calendar for the Universities in View of COVID-19 Pandemic and Subsequent Lockdown” herewith produced and marked as **Annexure - D**, wherein it was commanded that in case the situation does not appear to be normal in view of COVID-19, grading of the students could be a composite of 50% marks on the basis of internal evaluation adopted by the universities and the remaining 50% marks can be awarded on the basis of performance in previous semester. Relevant clause 5 under the subheading of “Examinations” in Annexure-D is as follows :-

“5. For intermediate semester/year students, the universities may conduct examinations after making a comprehensive assessment of their level of preparedness, residential status of the students, status of COVID-19 pandemic spread in different regions, state and other factors.

In case, the situation does not appear to be normal in view of COVID-19, in order to maintain “social distancing”, safety and health of the students, grading of the students could be composite of 50% marks on the basis of the pattern of internal evaluation adopted by the universities and the remaining 50% marks can be awarded on the basis of performance in previous semester only (if available). The internal evaluation can be continuous evaluation, prelims, mid semester, internal evaluation or whatever name is given for student progression.

In the situations where previous semester or previous year marks are not available, particularly in the first year of annual pattern of

examinations, 100% evaluation may be done on the basis of internal assessments.

If the student wishes to improve the grades, he/ she may appear in special exams for such subjects during next semester

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.”

The relevant clause 1 under the subheading ACADEMIC CALENDAR of Annexure – D is so eloquent and self-explanatory with respect to the period in which the intermediate semester/ year examinations had to be conducted and result declared to ensure least damage to students.

“ACADEMIC CALENDAR

1. The following calendar is suggested for the academic session 2019-2020:

The Academic Calendar is suggestive in nature. The universities may adopt / adapt it after making a comprehensive assessment of their level of preparedness, residential status of the students, status of COVID-19 pandemic spread in their city / region / state and other factors.

Start of Even Semester	01.01.2020
Suspension of Classes	16.03.2020
Continuation of Teaching-Learning through various modes such as Online Learning /Distance Learning/Social Media (WhatsApp /YouTube)/Emails/VideoConferencing/Mobile Apps/ SWAYAMPURABHA Channels on DTH etc.	16.03.2020 to 31.05.2020
Finalisation of Dissertation/ Project Work/ Internship Reports/ E-labs/ Completion of Syllabus/ Internal Assessment/ Assignment/ Students Placement Drive etc.	01.06.2020 to 15.06.2020
Summer Vacations #	
Conduct of Examinations:	

(i) Terminal Semester/ Year	01.07.2020 to 15.07.2020
(ii) Intermediate Semester/Year	16.07.2020 to 31.07.2020
Evaluation and Declaration of Result:	
(i) Terminal Semester/ Year	31.07.2020
(ii) Intermediate Semester/ Year	14.08.2020

#- If situation so demands, the universities can have Summer Vacations for 30 days from 01-06-2020 to 30-06-2020. In that case the teaching-learning through various modes can be held up to 15-05-2020 and subsequently Finalization of Dissertation etc. may be completed from 16-05-2020 to 31-05-2020.”

**At this juncture, it is most respectfully submitted that intermediate semester examination of even semester of 2019-20 academic year, ought to have been conducted from 16.07.2020 to 31.07.2020 and the result ought to have been published compulsorily on 14.08.2020.** But the second respondent has not done so and thereby committed intolerable and grave mistake in as much as it violates a valuable statutory/ legal right as well as the fundamental right of the petitioners and other similarly situated students. The 2<sup>nd</sup> respondent has no manner of right in law or in equity to violate Annexure-D and F Guidelines of the UGC as these Guidelines are issued in exercise of statutory powers vested in the commission under section 12 of University Grants Commission Act, 1956, thus have statutory force. The statutory regulation, 2003 categorically requires Universities to adopt guidelines issued by UGC, hence, it is the statutory duty of the 2<sup>nd</sup> respondent KSLU to adopt the guidelines issued by the 4<sup>th</sup> respondent UGC. Thereby the students get a corresponding statutory right to have their examinations and academic calendar as mandated by the guidelines issued by the UGC and the Government and therefore any act on the part of the 2<sup>nd</sup> respondent in violation of the guidelines issued by the UGC is a clear case of violation of their statutory/ legal right also which enable them to approach this Honourable High Court to protect their such legal right.

6. It is submitted, the Bar Council of India (BCI) by press release dated 09.06.2020, herewith produced and marked as **Annexure – E**, directed the colleges/universities to promote the intermediate students on the basis of performance of previous years marks and marks obtained in the internal examination of the current year and the universities shall conduct the end semester examination with respect to the year from which they have been promoted within a reasonable period of time. It is submitted that the said press release was announced considering the situation then prevailing emerging from the spread of COVID-19.
7. It is submitted that UGC Expert Committee was requested to revisit the Annexure – D Guidelines for Examinations and Academic Calendar as the number of COVID cases were rising and likely to increase further and the UGC issued another guideline on 06.07.2020 in continuation of Annexure-D guideline directing the universities to complete the examinations by the end of September 2020. The “UGC Revised Guidelines on Examinations and Academic Calendar for the Universities in view of COVID-19 Pandemic” dated 06.07.2020 issued by the UGC is produced herewith and marked as **Annexure – F**. In Annexure – F, the UGC has approved and reiterated that the recommendations of the Expert Committee regarding conduct of intermediate semester evaluation will remain the same as in Annexure D, UGC guidelines dated 29.04.2020. Following this, Universities in the country accepted the same and evaluated intermediate students abiding by the Annexure-D, UGC guidelines including law universities/colleges such as Savitri Bai Phule University, Mumbai University, Government Law College, Bombay and various National Law Universities. The relevant clause 4 in Annexure-F is as follows :-

“4. The guidelines regarding intermediate semester/year examinations will remain unchanged as notified on 29<sup>th</sup> April, 2020.”

Therefore, undisputedly the competent authority in these matters, namely, the UGC, has already issued guidelines which have to be followed as the UGC’s guidelines are mandatory in nature as held on 28.08.2020 in the

case Praneeth.K Vs UGC by the Honourable Supreme Court.

8. It is submitted that the State of Karnataka implemented the UGC Guidelines issued on 29.04.2020 vide its order ED/197/UNE/2020 dated 10.07.2020 mandating in clear terms that all the state universities have to mandatorily evaluate all the intermediate semester students based on comprehensive formula which is composite of 50% marks on the basis of the pattern of internal evaluation adopted by the universities and the remaining 50% marks awarded on the basis of performance in previous semester, keeping in mind the residential status of students, safety of students and importance of academic progression. By reading of the same, it is clear that the State Government has borne in mind the guidelines of the UGC and has taken this policy decision. The said Order of the Karnataka State Government dated 10.07.2020, is herewith produced and marked as **Annexure – G**. The relevant clause 2 of Annexure – G is as follows :-

**“2. For intermediate Semester/ Year (UG/PG) 2019-20**

- a) The students are promoted to higher semester based on the grading of students which would be composite of 50% marks on the basis of the pattern of internal evaluation adapted by the universities and the remaining 50% marks can be awarded on the basis of performance in previous semester only (if available)
- b) In the situations where previous semester or previous year marks are not available, particularly in the first year of annual pattern of examinations, 100% of evaluation may be done on the basis of Internal Evaluation.
- c) If the student wishes to improve the grades, he/she may appear in exams for such subjects during next semester.
- d) This provision for intermediate semester examinations is only for the current academic session (2019-20) in view of COVID-19 Pandemic.”

Therefore, in view of Annexures-D, F and G in respect of even semesters that fell in 2019-20 academic year examinations can only be conducted



by the mode of composite of 50% marks on the basis of the pattern of internal evaluation adapted by the universities and the remaining 50% marks awarded on the basis of performance in previous semester only and result ought to have been published by 14.08.2020. It is at this juncture respectfully submitted that clause 2 in Annexure-G is more or less the replica of Clause 5 of Annexure D. Therefore, it is to be particularly noted that the expert body of our country in these matters namely the UGC as qualified by the Honourable Supreme Court and the democratically elected State Government of Karnataka is standing for ensuring the health, safety and security of the students, faculty and staff and also to continue academic activities, conducting the examinations and declaring the results in a more practicable way to suit the need of the hour emerging out of the outbreak of COVID-19 Pandemic, facilitating the students to participate in further admissions, placement process, research and training etc as well as charting out a plan for the next academic session. Therefore, in a welfare nation like ours the Universities to which the various colleges are affiliated must not have any different opinion apart from the directions of the UGC and the democratically elected government.

9. It is submitted that subsequently the Karnataka State Law University issued revised academic calendar (KSLU/Reg/Acad-II/2020-21/0274) dated 16.07.2020 which is herewith produced and marked as **Annexure – H** which notified commencement of offline physical intermediate semester examination from 05.10.2020, completely deviating from the Annexure – D & F, UGC guidelines dated 29.04.2020 and 06.07.2020 respectively and Annexure – G, Government of Karnataka order dated 10.07.2020 and the Annexure – E, BCI press release dated 09.06.2020. The 2<sup>nd</sup> respondent took the said decision unilaterally, without any opinion being taken from the students or their parents and other stakeholders. This move of the university was widely objected by the students and other stake holders. Students voiced their dissent to the university decision through different media asking the university to Order of the State Government dated 10.07.2020 or to conduct exams in a safe

alternate method. But, the genuine demand of the students and other stakeholders fell on deaf ears.

- 10.** However, the KSLU vide its circular no. KSLU/2020-2021/294 dated 28.08.2020 which is herewith produced and marked as **Annexure – I**, postponed the intermediate semester examination and notified that the date of intermediate semester examination will be communicated after reopening of college. It is submitted that students and other stakeholders are highly prejudiced by this decision because this decision did not solve any of the problems of the stakeholders and just unnecessarily prolonged the torment on students and parents by extending the academic year indefinitely and leaving behind the KSLU students as other law universities and non-law university students were successfully completing their courses by implementing the UGC guidelines and the Government of Karnataka Order.
- 11.** It is submitted that the 2<sup>nd</sup> Respondent KSLU, by its Notice dated 31.08.2020, started with its 2020-2021 academic year in online mode from September 1<sup>st</sup> as per Government of Karnataka order ED/197/UNE/2020 dated 10.07.2020 without completing its previous intermediate semester evaluation as envisaged in Annexure D&F UGC guidelines and Annexure-G Government Order. On 13.10.2020 vide its circular No. KSLU/Exam/2020-21/419 herewith produced and marked as **Annexure – J**, 2<sup>nd</sup> Respondent KSLU again issued a notification to conduct offline examinations for its intermediate students from 23.11.2020. KSLU again found its decision to hold intermediate offline exams impracticable and therefore postponed the intermediate exams again indefinitely extending academic years of all its thousands of intermediate year students via its circular No. KSLU/Exam/2020 dated 23.10.2020. Therefore, 2<sup>nd</sup> respondent KSLU itself found its decision to hold intermediate semester examinations through physical offline method impracticable and unsafe twice.
- 12.** Facts being so, on 01.11.2020, the Bar Council of India issued a Press Release, herewith produced and marked as **Annexure – K**, wherein the

Bar Council of India modified its earlier Resolution dated 27.05.2020, press release dated 09.06.2020 and resolution dated 05.10.2020. The relevant portion of press release dated 01.11.2020 is as follows:-

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

In this respect it is most respectfully submitted that the law student community by and large and all colleges affiliated to the KSLU are possessing adequate infrastructure and other facilities to conduct online classes and online examinations. KSLU has admittedly stated in all its circulars and official website that it is “Accredited with ‘A’ Grade by NAAC”. It is submitted that an A Grade NAAC accreditation requires very high infrastructure and online facilities from a University. It is very respectfully submitted that even the universities that do not have a NAAC ‘A’ Grade Accreditation have conducted online examinations successfully. It is further submitted that by Annexure-K, the physical offline mode of examination is the choice of the student alone who failed in the evaluation through online mode or composite mode of 50:50 basis for the intermediate semester. By Annexures - D, E, F, G & K, the evaluation of an intermediate semester that fell in 2019-20 academic year could only be based on the grading of students composite of 50% marks

on the basis of the pattern of internal evaluation adapted by the Universities and the remaining 50% marks should be awarded on the basis of performance in the previous semester and the KSLU or the colleges affiliated to the KSLU have no other choice. Therefore, the KSLU has already done a grave mistake and dereliction of duty cast upon it by not publishing the result of the intermediate semester that fell in 2019-20 academic year on the basis of the said 50:50 basis before 14.08.2020.

- 13.** Therefore, on a plain reading and on a realistic interpretation of Annexures D, F & G, it is crystal clear that the 2<sup>nd</sup> respondent KSLU has no right in law to deviate and travel beyond the directions and terms of the said guidelines of the UGC and the Order dated 10.07.2020 issued by the 3<sup>rd</sup> respondent Government of Karnataka and to take a decision to conduct examination physically for the intermediate semester which fell in the academic year 2019-20. Therefore, the 2<sup>nd</sup> respondent KSLU is peremptory and duty bound to conduct the examination through the composite mode of 50:50 basis, in respect of the 'EVEN' semester that fell in the academic year 2019-20 without any excuse or fail. Thus, the 2<sup>nd</sup> respondent KSLU ought to have conducted the examination of the relevant 'EVEN' semester which fell in the academic year 2019-20 from 16.07.2020 to 31.07.2020 and published the result on 14.08.2020 without fail, through 50:50 basis. But, alarmingly and astonishingly and to the dismay of the petitioners and other similarly situated students and parents and other stakeholders, the KSLU had not conducted the evaluation through 50:50 basis as mandated by Annexures D and F, UGC guidelines and Annexure – G, Order of Government of Karnataka. Thus, thereby, 2<sup>nd</sup> respondent KSLU has flouted and stultified the mandatory directions of the UGC and the Government of Karnataka, which is unpardonable and un-excusable in the light of the rapid spread of COVID-19 pandemic. **Moreover, this Honourable High Court may also be pleased to take judicial notice of the fact that now a new variant of Coronavirus has developed and has started widely spreading not only in the State of Karnataka but in whole of India and the whole world.** The situation

is so horrible and terrible except in the eye of the 2<sup>nd</sup> respondent KSLU. It appears so from the irresponsible, capricious, illegal, unfair and unreasonable attitude of the 2<sup>nd</sup> respondent KSLU in handling the present worsened situation due to the outbreak of COVID-19 and the more harmful variant of the Coronavirus. It is also to be taken note of the fact that University semester exams are a month-long procedure and most COVID-19 patients are home treated and a student staying away from their homes, in a hostel and other rented accommodations will not get any form of adequate treatment.

- 14.** It is submitted that in the beginning of Lockdown, students were still only getting accustomed to the new method of teaching and now students have completely accepted and are well equipped for attending online method of education-both for classes and examinations, and this is proven by the low attendance in offline classes which is only less than 5% as the Honourable Chief Minister of Karnataka has himself accepted to the media.
- 15.** But, alarmingly and astonishingly, without considering and applying its mind on the horrible and terrible situation emerging due to the outbreak of COVID-19 pandemic and the rapid spread of new variant of Coronavirus, the KSLU issued the Annexure – A, impugned circular dated 09.11.2020, stating that the Intermediate semester students of all KSLU affiliated law colleges are mandatorily required to write intermediate semester examinations as per the Bar Council Press Release dated 09.06.2020. In this respect it is to be noted that the BCI has already said a go-by to Annexure – E press release dated 09.06.2020, by its Annexure – K Press Release dated 01.11.2020. Therefore, it is highly improper, capricious, unreasonable and unfair on the part of the 2<sup>nd</sup> respondent KSLU to rely upon such an outdated Annexure – E press release. So, Annexure – A circular is invalid, unreasonable, unfair, capricious, arbitrary and therefore, not worth to act upon. Even if it goes by Annexure – A, it is not possible to hold the intermediate semester examinations now or in the near future as Annexure-A, itself mandates the KSLU to conduct the intermediate semester examinations keeping in

mind the COVID-19 situation and offline physical exams only after the reopening of colleges when the pandemic situation is averted. It is to be noted that Central Government, State Government, World Health Organization or any authority has not given any forecast as to when the pandemic situation will be averted. The pandemic situation is persisting in reality. When evaluating the situation after the outbreak of COVID-19 pandemic before an year and the study about the situation after the COVID-19 it cannot be expected that the horrible and terrible situation will be ending in the near future as the Central Government itself declared that the vaccinations could be given to all the citizens only 1-2 years hereafter. So it is respectfully submitted that what is feasible and practicable is to conduct the examinations either through the 50:50 comprehensive method or through online methods. Offline method is not at all viable, feasible, practicable and hence not allowable. At any rate, neither the UGC nor the BCI nor the State Government of Karnataka recommends offline mode of examination for intermediate semester. In such a situation, the 2<sup>nd</sup> respondent KSLU will not get any right or authority to conduct the offline examination for the intermediate semester students. So, the Annexure – A & O circulars are to be quashed.

- 16.** It is submitted that in any case, the guidelines issued by the Bar Council of India by its Annexure – K, press release dated 01.11.2020 and the Annexure – L circular dated 09.11.2020, issued by KSLU, suffer from ambiguity as it is impossible to determine when the pandemic will be averted and normalcy will return. It would be unreasonable to subject the students who are unable to appear in the physical exams, to the uncertainty of when the re-examinations for the same would be held. Furthermore, it would also be unsustainable to test the students after a lapse of a prolonged period of time after the pandemic is completely averted, on subject matters that were taught 8-9 months earlier. It is to be noted that the previous/ even semester examination had to be conducted in the month of June 2020. So, it is unreasonable, arbitrary, unfair, shylockian theory, mentally and physically worrisome giving and pragmatic to conduct examination for the previous/ even semester after a long period of 8-9 months after ending the previous/ even semester. The

next previous semester of the law courses could have ended in the December 2020. So, examination for the next previous semester has to be conducted through online method. In view of Annexure D & F guidelines of UGC, it is pertinent to note that classes for the next previous semester has already been taken through online successfully. So, at the most the 2<sup>nd</sup> respondent can put forward an in vain and futile contention that the said intermediate semester examination may be conducted through online mode. It is the need of the hour to not conduct the said semester examination through offline physical mode as it would be a flagrant violation of Article 14 & 21 of the Constitution. On a plain reading of Annexure D & F, UGC Guidelines, Annexure- G, Order of Government of Karnataka, Annexure – K, BCI guidelines, it is very clear that online method of teaching and examination is the preferred mode while the COVID-19 Pandemic subsists.

- 17.** It is admitted in the UGC Guidelines for Re-Opening the Universities and Colleges Post Lockdown due to COVID-19 Pandemic dated 05.11.2020, herewith produced and marked as **Annexure – L**, it is expressly directed that online mode will be the preferred mode of education. The relevant portion of Annexure – L is extracted here under:-

“In order to contain the spread of COVID-19 pandemic in the educational institutions and to ensure continuity in teaching-learning process, Ministry of Education and UGC issued several directives/ advisories/ guidelines to the universities and colleges, including the one to impart online education by making the best use of e-resources. Through all the communications made by Ministry of Education and UGC, it was emphasized to continue with teaching-learning processes using online modes such as Google Classroom, Cisco Webex Meeting, You Tube streaming, OERs, SWAYAM platform ([www.swayam.gov.in](http://www.swayam.gov.in)), Swayam Prabha ([www.swayamprabha.gov.in](http://www.swayamprabha.gov.in)) (available on Doordarshan (Free dish) and Dish TV), e-yantra ([www.e-yantra.org](http://www.e-yantra.org)), Virtual Labs ([www.vlab.co.in](http://www.vlab.co.in)), FOSSEE (<https://fossee.in>), application of spoken tutorials ([www.spoken-tutorial.org](http://www.spoken-tutorial.org)), National Digital

Library (NDL) (<https://ndl.iitkgp.ac.in>), electronic journals (<https://ess.inflibnet.ac.in>) etc.”

Subclause ii, iii and iv under the Clause 3.3 of Annexure-L commands as follows:-

“ii. Thereafter, students of all research programmes and post-graduate students in science & technology programmes may join as the number of such students is comparatively less and norms of physical distancing and preventive measures can be easily enforced.

iii. Further, final year students may also be allowed to join for academic and placement purposes, as per the decision of the head of the institution. However, for (i), (ii) and (iii) above, it should be ensured that not more than 50% of the total students should be present at any point of time and necessary guidelines/protocols to prevent the spread of COVID-19 are observed.

iv. For the programmes, other than those mentioned in paras 3.3 (ii) and (iii) above, **online/distance learning shall continue to be the preferred mode of teaching and shall be encouraged.**”  
(emphasis given)

Subclause vi and vii under the Clause 3.3 Measures is so eloquent and it commands as follows:-

“vi. Some students may opt not to attend classes and prefer to study online while staying at home. Institutions may provide online study material and access to e-resources to such students for teaching-learning.

vii. Institutions should have a plan ready for such international students who could not join the programme due to international travel restrictions or visa-related issues. Online teaching-learning arrangements should also be made for them.”

Therefore, by Annexure – L also the KSLU and the colleges affiliated to KSLU cannot compulsorily demand the conduct of classes and the examinations through offline mode alone. They must conduct classes and examinations through online mode.

- 18.** It is further submitted that being highly aggrieved by the decision of the 2<sup>nd</sup> respondent KSLU to hold physical offline examination, the students



made representation before the University Grants Commission and thereby placed the student's grievances about the proposed offline physical examination to be conducted by the KSLU. Having found that the representation is genuine and the students, teaching staff, parents and other stakeholders are being really and genuinely aggrieved by the capricious, illogical, unreasonable decision to hold the offline physical examination during this COVID-19 Pandemic, the University Grants Commission issued a letter F.no.2-41/COMPLAINTS/UGC-SWRO/2020-21 dated 21.12.2020 to the Registrar, Karnataka State Law University directing it to look into the matter as the proposed examination is not conducive to the students and address their grievances with an intimation to the UGC about what action has been taken in the matter to resolve the grievances of the students. A copy of the said letter dated 21.12.2020 is produced herewith and marked as **Annexure-M**. However, unfortunately, the 2<sup>nd</sup> Respondent has not considered Annexure – M for resolving the grievances of students. But, on the contrary, 2<sup>nd</sup> Respondent is taking speedy steps to conduct physical offline examination for the intermediate semester that fell in the academic year 2019-20 absolutely discarding and stultifying Annexures D, F, K, L & M. The action of the 2<sup>nd</sup> respondent is contumacious, illegal, unilateral, arbitrary, unreasonable, unfair and most oppressive to the law student community, parents, teaching staff and other stakeholders. The said action of the 2<sup>nd</sup> respondent will certainly cause the wider spreading of the COVID-19 virus and the new variant of Coronavirus, not only in Karnataka but all over India and even foreign countries as there are a umpteen number of students from these places in the various colleges affiliated to KSLU. Needless to say that, if the attempt of the 2<sup>nd</sup> respondent KSLU is allowed to succeed, the result would be irretrievable and there is every chance for it to be very threatening and fearful as we saw recently in the case of Manipal University and IIT Madras and other colleges that conducted offline exams and had to change to online exams because of rapid spread of COVID-19 amongst students owing to the offline exams. This is why other universities and colleges in the country have decided to conduct online mode of examination and classes.

- 19.** It is submitted that in the ADVISORY ON RECOGNITION AND CONTAINMENT MEASURES FOR SECOND WAVE OF COVID-19 IN KARNATAKA issued by the DEPARTMENT OF HEALTH AND FAMILY WELFARE- GOVERNMENT OF KARNATAKA on 30.11.2020, herewith produced and marked as **Annexure-N** it is clearly stated that second wave of COVID-19 is anticipated in January-February. Therefore, it will be highly dangerous and impracticable to force offline physical exams on students till the end of the second wave. This will result in even further extension of courses of students. Already, the delay caused by the KSLU due to its unfounded and unreasonable stubbornness in conducting impracticable offline physical exams has resulted in irrecoverable loss of time to students. The KSLU or any other authority has no right or power to lengthen the academic calendar to the detriment of the students by loss of time from their education life. So, the need of the hour is to conduct online classes and online exams and publish the result accordingly and award degree certificates. Otherwise, it would be a violation of the fundamental right guaranteed under Article 21 of the Constitution. KSLU has to rise to the occasion as done by the Honourable Courts and other similar law universities of the country.
- 20.** Facts being so, the second respondent issued another circular dated 13.01.2021 stating that it will conduct offline physical mode of examination for the ‘EVEN’ semester that fell in the academic year 2019-20 and the ‘ODD’ semester falling in the academic year 2020-21 from 08.02.2021-06.03.2021 and 08.03.2021-20.04.2021 respectively, totally ignoring and stultifying the mandatory provision contained in Annexure-D, F and L UGC guidelines and Annexure – G, Government Order. It is further submitted that by virtue of Section 12 of the University Grants Commission Act, 1956 the Commission has got specific power to take steps **as it may think fit** for the promotion and coordination of University education and for the determination and maintenance of standards of teaching, examination and research in universities. Considering this position of law the Government of Karnataka has given effect to Annexure-D by issuing Annexure-G, Government Order.

- 21.** The Government and all the authorities are doing everything in their power to reduce the number of COVID 19 patients whereas the KSLU is making an action that will definitely increase the number of COVID 19 patients.
- 22.** It is submitted that the Division Bench of this Honourable High Court by judgement dated 31.08.2020, in the case Sadanand V/s University of Agricultural Sciences rep. by its Registrar held that in the situation of COVID-19 Pandemic classes and examinations must be conducted through online only for the reason that online method is reasonable and for securing the interest of the students and other stakeholders. The Division Bench of this Honourable High Court also noted that the risk of congregation in the University would arise if the students have to attend examinations physically in the University and consequently all stakeholders would be exposed to the risk of life.
- 23.** Further, the Honourable High Court of Kerala by its judgement dated 01.10.2020, in the case Reshma.S.Nair V/s Cochin University of Science And Technology (CUSAT) in clear terms held that even 4 months extension of the academic calendar is intolerable and not allowable as the University could have conducted the examinations for the supplementary papers of LLB students by online considering the outbreak of COVID-19 pandemic and therefore directed the university to conduct the examinations through online instead of offline immediately and publish results immediately without delay for avoiding the extension of the academic calendar year.
- 24.** It is further submitted that if the KSLU and the colleges affiliated to the KSLU still insists for offline classes and offline examinations and coerce the students to appear physically in the classrooms and the examination halls and if students get infected with COVID-19 then such students must be adequately compensated by the KSLU and the particular institution in which such student/ students is/ are studying.

- 25.** It is submitted that the petitioners have not presented any other Writ Petition before this Hon'ble Court or any other Forum on the same cause of action. The petitioners, having no other efficacious or alternate remedy, have approached this Hon'ble High Court by presenting this Writ Petition under Article 226 of the Constitution on the following among other grounds:

### **GROUND**

- I.** The Honourable Supreme Court in the case Praneeth. K V/s University Grants Commission, held that the guidelines issued by the UGC has the force of law and are to be mandatorily observed. The impugned circulars Annexure – A dated 09.11.2020 and Annexure – O dated 13.01.2021 issued by Respondent No.2 imposes an offline physical mode of examination on the intermediate semester Law students, for the semester from which they have already been promoted more than 6 months back and imposing an unreasonable expectation on students to undertake the herculean task of writing 2 semester exams consecutively, through an offline physical mode and extending the academic calendar, much after both semester teaching has been completed, violating Article 14 and 21 of the Constitution. Alternate mode of examinations as prescribed by UGC, BCI and Government of Karnataka, whereby students' education is secured without violating a students' right to life and right to equality, such as online modes of examinations through research paper submission, online open book exam, composite mode of 50:50 etc has been conducted by other educational institutions of the country and the state of Karnataka in respect of the intermediate 'EVEN' semester of academic year 2019-20 and 'ODD' semester of 2020-21 academic year, without causing any damage to the academic calendar. Such alternate mode of examinations other than offline physical mode are held proper and good by all concerned authorities and Honourable Courts in the present scenario of COVID-19 pandemic.
- II.** In the case University Grants Commission and Another Vs Neha Anil

Bobde (Gadekar), reported in (2013) 10 SCC 519, the Honourable Supreme Court clearly held that UGC being an expert body is entrusted with duty to take such steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in the University.

- III. The Division Bench of this Honourable High Court by judgement dated 31.08.2020, in the case **Sadanand V/s University of Agricultural Sciences** rep. by its Registrar held that in the situation of COVID-19 Pandemic classes and examinations must be conducted through online only for the reason that online method is reasonable and for securing the interest of the students and other stakeholders. The Division Bench of this Honourable High Court also noted that the risk of congregation in the University would arise if the students have to attend examinations physically in the University and consequently all stakeholders would be exposed to the risk of life.
- IV. The Honourable High Court of Kerala by its judgement dated 01.10.2020, in the case **Reshma.S.Nair V/s Cochin University of Science And Technology (CUSAT)** in clear terms held that even 4 months extension of the academic calendar is intolerable and not allowable as the University could have conducted the **examinations for the LLB students by online** considering the outbreak of COVID-19 pandemic and therefore directed the university to conduct the examinations through online instead of offline immediately and publish results immediately without delay for avoiding the extension of the academic calendar year.
- V. The 2<sup>nd</sup> respondent ought to have conducted the evaluation of the intermediate semester students for the 'EVEN' semester that fell in 2019-20 academic year through the composite mode of 50% marks on the basis of internal evaluation adopted by the universities and the remaining 50% marks awarded on the basis of performance in previous semester and published the results accordingly on 14.08.2020 as mandated by Annexure D and F UGC Guidelines.

- VI.** Due to the delay caused by the 2<sup>nd</sup> respondent's unreasonable and unnecessary stubbornness of conducting offline physical exams and because of no fault of the students, the petitioners and other students of KSLU are having to face the herculean task of writing 4 semester exams in a short span. This is beyond human capacity and legitimate expectation from students.
- VII.** A division bench of this Honourable High Court of Karnataka in **S P Venkatesh v. The Chief Secretary, Government of Karnataka & Anr.**, has examined the government of Karnataka order no. ED/197/UNE/2020 dated 10.07.2020 in the respect of intermediate 'EVEN' semester that fell in the academic year 2019-20 and while upholding its validity held that:

“The State Government has always the power as well as the discretion to guide the Universities individually or issue advisories to the respective Universities coming within the scope and ambit of the Universities Act, 2000. But in such exceptional circumstances, we cannot find fault with the State Government taking a policy decision on behalf of all the Universities so that the health and safety of the students, stakeholders is safeguarded and protected.”

“The other reason as to why the State has taken such a policy decision is to ensure uniformity amongst all the Universities so that there is no disparity caused amongst the students or the students being put to any other difficulty in their future career progression on account of different methods being adopted by the Universities in the State.”

Therefore, the legislative competence of the government in respect of GOK order no. ED/197/UNE/2020 dated 10.07.2020 cannot be disputed and its authority to direct KSLU to adopt a particular evaluation

mechanism can also be traced in section 9 r/w section 10 of The Karnataka State Law Universities Act, 2009. Therefore even by the said judgement the results of the 'EVEN' semester of the academic year 2019-20 had to be published by the 2<sup>nd</sup> respondent KSLU on the basis of 50:50 composite method of examination.

- VIII.** The UGC derives its authority in respect of the examination from Section 12 of THE UNIVERSITY GRANTS COMMISSION ACT, 1956 and the statute does not classify between Law University and Non-law University. Therefore, an order of the government which is giving effect to UGC guideline, is binding on all Law Universities and the KSLU as well. Examination only after reopening of colleges, when the students are already in next semester and withholding academic progression is beyond the scope of the Annexure D & F UGC guidelines dated 29.04.2020 and 06.07.2020 respectively. In the case of **Praneeth K vs University Grants Commission on 28 August, 2020**, the Supreme Court has conclusively decided that UGC guidelines are mandatory in nature and not advisory.
- IX.** By subclause iv of clause 3.3 of Annexure-L, UGC Guideline dated 05.11.2020 barred the conduct of offline physical mode regular classes and offline physical mode examinations for intermediate students in the wake of COVID-19 pandemic.
- X.** The UGC academic calendar is a policy decision by a statutory body constituted for the purpose. The UGC academic calendar ensures equal opportunity and fairness and goodness of all students of the country. All academic activities and higher education and job applications are conducted in pursuance of the UGC academic calendar. If it is not followed by 2<sup>nd</sup> respondent KSLU alone, it will cause irreparable injury, loss and damage to the petitioners and thousands of similarly situated students. Therefore, it is absolutely necessary to follow the UGC academic calendar. Thus, the Honourable Supreme Court in the case **Praneeth. K Vs UGC** categorically held that Annexures D and F guidelines were issued by the 4<sup>th</sup> respondent UGC with the object that an

uniform academic calendar be followed by all the universities (read para 110 of the said judgment).

**XI. The intermediate semester examination of 'EVEN' semester of 2019-20 academic year, ought to have been conducted from 16.07.2020 to 31.07.2020 and the result ought to have been published compulsorily on 14.08.2020.** But the second respondent has not done so and thereby committed intolerable and grave mistake in as much as it violates a valuable statutory/ legal right as well as the fundamental right of the petitioners and other similarly situated students. The 2<sup>nd</sup> respondent has no right in law or in equity to violate Annexure-D and F Guidelines of the UGC as these Guidelines are issued in exercise of statutory powers vested in the commission under section 12 of University Grants Commission Act, 1956, thus have statutory force. The statutory regulation, 2003 categorically requires Universities to adopt guidelines issued by UGC, hence, it is the statutory duty of the 2<sup>nd</sup> respondent KSLU to adopt the guidelines issued by the 4<sup>th</sup> respondent UGC. Thereby the students get a corresponding statutory right to have their examinations and academic calendar as mandated by the guidelines issued by the UGC and the Government and therefore any act on the part of the 2<sup>nd</sup> respondent in violation of the guidelines issued by the UGC is a clear case of violation of their statutory/ legal right also which enable them to approach this Honourable High Court to protect their such legal right.

**XII.** At the most, the KSLU can only conduct online exams as per the BCI circular dated 01.11.2020 as KSLU has the ability and infrastructure to conduct an online mode of examination since an online mode of examination does not require any extraordinary facility from the side of a University that an University normally does not possess and because KSLU has been successfully conducting online daily classes and an online examination only requires much lesser online requirement from the University's side than an online daily class and also because such an online examination requires only very minimal online requirement from the side of a student.



- XIII.** When the Government of Karnataka took a decision, by Annexure-G order for mitigation or prevention of disaster, it is not possible to hold physical examination for 'EVEN' intermediate semester which fell in 2019-20, in the state, the said decision of the Government was within the four corners of Disaster Management Act, 2005 (read paragraph 109 of judgement Praneeth. K Vs UGC)
- XIV.** KSLU has already conducted online daily classes and part evaluation of all its students through online methods and full evaluation of certain subjects also through online methods. An online exam requires much lesser online requirement from a student and an university than conducting/attending online daily classes which the KSLU has already admittedly done and it is under this presumption that the KSLU is even gearing up to conduct examinations for intermediate students. Therefore, an online exam is absolutely viable and possible for the KSLU to conduct.
- XV.** An offline exam during the pandemic is a risk to life and the pandemic situation is still not averted and this is also proven by the fact that coerced consent letters, waiving responsibility of colleges affiliated to KSLU and KSLU in the event of student getting infected by COVID-19 and dying, are taken from students for attending offline exams. However, when a student is not given any option other than offline exam then the student feels coerced to appear for the risky offline exam to safeguard his future at the risk of his life. KSLU has Indian students with residential status outside the country in Europe and Middle East. Due to newly imposed lockdowns and travel restrictions owing to the COVID-19 pandemic, such students will be completely deprived of a chance for giving exams if wholly offline exams are conducted. Wholly offline exams are violating the principles envisaged by Annexures – D, F, G, K, L & M.
- XVI.** The KSLU has not taken any opinion from stakeholders, intermediate students or their parents, regarding the conduct of examinations while a pandemic is subsisting. This unilateral, unfair and unjust decision of KSLU to conduct wholly offline exams while COVID 19 pandemic is frivolous and one with ulterior motives and against principles of natural

justice. By the capricious, unreasonable, unfair, arbitrary and illegal conduct of the 2<sup>nd</sup> respondent, the petitioners and other students studying in the law colleges affiliated to the 2<sup>nd</sup> respondent has been suffering irretrievable injury and loss and damage for which the 2<sup>nd</sup> respondent is liable to compensate for such loss and damage also.

**XVII.** The Annexure-A circular dated 09.11.2020, suffer from ambiguity as it is impossible to determine when the pandemic will be averted and normalcy will return. In this respect one thing is sure and certain that at present the normalcy has not come and is not expected in the near future as per World Health Organisation, Government of India and other concerned authorities. It would be unreasonable to subject the students who are unable to appear in the physical exams, to the uncertainty of when the re-examinations for the same would be held. Furthermore, it would also be unsustainable to test the students after a lapse of a prolonged period of time after the pandemic is completely averted, on subject matters that are taught in the months of July and October of 2020. The 2<sup>nd</sup> respondent issued Annexure-A and Annexure – O without application of mind. In the case of **V.V. Mineral (Firm) Vs The Regional Controller of Mines**, The Honourable High Court of Madras quashed the order of the Regional Controller of Mines because the order was made without “application of mind”. Annexure – A, by itself estops the 2<sup>nd</sup> respondent from the issuance of Annexure-O circular dated 13.01.2021 as the COVID-19 pandemic is not averted till now and normalcy has not returned as expressly and clearly mandated in Annexures- E and K, BCI guidelines dated 09.06.2020 and 01.11.2020 respectively.

**XVIII.** As per the government order, anyone who is not satisfied with the grade will get an opportunity to write examination after reopening of colleges. As well as the mode of alternate mode of examinations other than physical offline exams is also the need of the hour. At this juncture it is to be noted that internationally reputed educational institutions are also conducting evaluation through alternative methods other than physical offline exams

such as Multiple Choice Question/Optical Mark Recognition based examinations, Open book examination, Open choices, assignment/paper presentation conducted through online methods. In fact by BCI guidelines and UGC guidelines, it is envisaged to conduct examination through 50:50 comprehensive mode or alternate mode of examination through online modes. It is also further submitted that normally the academic calendar for the 'EVEN' semester of 2019-20 academic year had to be ended in the month of July 2020 and the academic calendar for the 'ODD' semester of 2020-21 had to be completed in the month of December 2020. Due to the COVID-19 pandemic the UGC extended the 'EVEN' semester of 2019-20 academic year to 14.08.2020. The 2<sup>nd</sup> respondent KSLU has no power to extend the academic calendar further.

**XIX.** For that it's not only the wisdom or soundness of the policy, but the constitutionality of the policy, which is under question here. The impugned orders/notifications/communications violate right to equality of the students as well as their right to life. Therefore, this honorable High Court may be pleased to invoke its extraordinary jurisdiction under Article 226 of its Constitution Of India.

#### **GROUND FOR INTERIM PRAYER**

**I.** For that the Annexure-A circular dated 09.11.2020 and Annexure – O circular dated 13.01.2021, issued by Respondent No.2 is violative of Article 14 and 21 of the Constitution Of India and is against Annexures D, F & L guidelines of the UGC and Annexure-G, Order of Government of Karnataka and Annexure-K, BCI press release dated 01.11.2020. The 2<sup>nd</sup> respondent is estopped from issuing Annexure-O circular dated 13.01.2021 by its own Annexure-A circular dated 09.11.2020 and completely barred by Annexures – D, F and L, UGC guidelines and Annexures – E and K, BCI press releases and Annexure – G, Government Order.

It is submitted that the petitioners have filed one W.P.(FR)no. 799/2021 in which the petitioners have challenged Annexure-A circular dated 09.11.2020.

However, due to issuance of subsequent circular Annexure-O dated 13.01.2021 the petitioners are constrained to file the present Writ Petition challenging both the Annexures 'A' and 'O' circulars. In view of the said fact we are undertaking to withdraw the earlier Writ Petition (FR) no. 799/2021. The prayers in the present Writ Petition suffices as to the prayers.

### **PRAYER**

WHEREFORE, the petitioners most humbly pray that this Hon'ble Court be pleased to call for records and issue:

- I.** Appropriate Writ, order or direction in the nature of certiorari quashing the impugned Annexure-A Circular dated 09.11.2020 and Annexure – O circular dated 13.01.2021 issued by the 2<sup>nd</sup> respondent as it imposes examination through offline physical mode on intermediate semester law students studying in the colleges affiliated to the 2<sup>nd</sup> respondent KSLU for the 'EVEN' semester that fell in the academic year 2019-20 and the 'ODD' semester that fell in the academic year 2020-21.
- II.** A writ of mandamus or any other writ, order or direction directing the 2<sup>nd</sup> respondent to conduct the evaluation of the intermediate semester students for the 'EVEN' semester that fell in 2019-20 academic year through the composite mode of 50% marks on the basis of internal evaluation adopted by the university and the remaining 50% marks awarded on the basis of performance in previous semester and publish the results accordingly forthwith.
- III.** A writ of mandamus or any other writ, order or direction directing the 2<sup>nd</sup> respondent to conduct the examination for the 'ODD' semester falling in the academic year 2020-21 through online mode and publish results accordingly immediately.
- IV.** Declare that the 2<sup>nd</sup> respondent KSLU or the 1<sup>st</sup> respondent BCI has no right or authority to lengthen/extend the academic calendar indefinitely to the utter detriment to the students and parents purely at the cost of the students and parents.
- V.** Declare that the petitioners are entitled to claim and receive compensation for the mental pain and agony suffered by them on account of the

indefinite extension of academic year and due to the failure, laches, inaction/action caused and committed by the 2<sup>nd</sup> respondent by not conducting the evaluation and publishing the result accordingly for the 'EVEN' intermediate semester that fell in the academic year 2019-20 on 14.08.2020 as mandated in Annexure-D and F UGC guidelines and by not conducting the examination for the 'ODD' semester that fell in the academic year 2020-21 through online mode till now, to the tune of Rs.5,00,000/- (Rupees five lakhs only) to each petitioner, and,

**VI.** Issue other appropriate writ or orders or directions to the respondents as this Honourable High Court deems fit and proper in the facts and circumstances of this case and in the interest of justice and equity.

### **INTERIM PRAYER**

Pending disposal of this Writ Petition, the petitioners pray that this Hon'ble High Court may be pleased to :-

- I.** Stay the operation of Annexure-A and Annexure – O circulars dated 09.11.2020 and 13.01.2021, respectively, issued by respondent no.2, to the extent that they impose offline physical mode of examinations for the 'EVEN' intermediate semester of the academic year 2019-20 and the 'ODD' semester of academic year 2020-21 on the petitioners and all law students of all the law colleges affiliated with the 2<sup>nd</sup> respondent KSLU.

Place: Bangalore

Date:18.01.2021

Advocate for petitioners

**ADDRESS FOR SERVICE:**

