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AGE BAR ON LEGAL PROFESSION & LEGAL EDUCATION BY BCI: VIOLATION OF FUNDAMENTAL RIGHTS

BY PRIYANSHU KUMAR[1]

ABSTRACT

Bar and Bench plays a critical role in laying down standards of legal education and legal profession to maintain the ethical norms of the law. Harmonization between the two authority is essential for strengthening the faith of the public on the judiciary. With Article 21 and Article 21-A, the education is promoted to choose any course of their likes without any restriction, as well as Legal Education Rules 2008, Section 24 and 49 of the Advocates Act 1961 promotes legal education. On the other side snatched away by introducing the Clause 28 of BCI Rules by prescribing the maximum age limit of 20 years and 45 yrs. for the 5-years and 3-years law degree course. Age barring rule is violative of Article 14, Article 19(1)(g) and Article 21, the golden triangle rule of the Constitution of India. On several occasions like Rishabh Duggal case, Kanha & Anr. case, and Kshitij Sharma case where the court has held such ruled to be violative of principle of natural justice, eventually students were allowed to appear before the examination despite being above 20 yrs. and 30 yrs.

Other jurisdictions like USA, UK, and Australia Bar Association are some domain area where the maximum age to profess legal education and legal profession is not prescribed. However, in such jurisdiction minimum age is prescribed as similar to Indian Bar Association. The paper will try to answer the question whether the BCI is within the power to introduce Clause 28 of Rule 11 which created maximum age for legal education and legal profession or not. The aim of the paper will be to study the rule of age bar on legal education and legal profession is violative of fundamental rights of the citizens or not. Additionally, does this clause 28 of Rule 11 pass on the test of reasonable classification laid down under Article 14 of the Constitution of India or not.

Keywords: *Bar and Bench, legal education, legal profession, Age bar, Clause 28.*

[1] Author is a student at National University of Study and Research in Law, Ranchi.

INTRODUCTION

Fundamental rights under the Constitution contains very specific and important contents which give freedom and duty to the citizens, however the contents contained under these Fundamental rights are not fixed. As the time passed, some of the fill in the blanks in these rights have been done by each generation based on the experience. Restrictions, abridgement, curtailment and even abrogation of these rights in circumstances not visualized by the constitution makers might become necessary, their claim to supremacy or priority is liable to be overborne at stages in the history of the nation by the moral claims embodied in Part IV. [2] Right to education was too included in the Constitution which corresponds to the Article 13(1) of the ICESCR that require the State to provide free and compulsory education for all children until they complete the age of 14 years.[3]

Right to education was included as fundamental right by the Supreme Court in the cases like *Mohini Jain v. State of Karnataka*,[4] and *Unnikrishnan J P v. State of Andhra Pradesh*.[5] Article 41, 45 and 46 of the Constitution are such directive principles which shows that right to education has its roots engulfed under Article 21,[6] in such a way right to education has become an integral part of the right to life.

Indeed, the right to education provided under Constitution is to provide freedom, but since the Bar Council of India Rules, 1975 has introduced a new rule for the law students to pursue legal profession within the maximum age limit prescribed under Clause 28 of the Rules, 1975, it has raised several arguments against the rule and power of the BCI being ultra vires the Constitution by putting an age bar. It has been contended that such rule is violative of Article 14 as it does not create reasonable classification and such law does not seek to achieve the object, since it restricts right to equality of the citizen who are above the age of 20 years and 45 years for the 5-years and 3-years law degree courses. Even though, the Supreme Court in the case like *Indian Council for legal Aid & Advice case*[7] has took up the matter into its hand, but the final stop was reached by the Court in the Rishabh Duggal Case where the Supreme Court has questioned the power of the Bar in prescribing the maximum age limit, and questioned that 'on one hand you promote legal education through Legal Education Rules

[2] *Kesavananda Bharti v. State of Kerala*, (1973) 4 SCC 225.
[3] Article 45 of the Constitution of India, 1950.
[4] *Mohini Jain v. State of Karnataka, (1992) 3 SCC 666.*
[5] *Unnikrishnan J P v. State of Andhra Pradesh, (1993) 1 SCC 645.*
[6] Article 21 of the Constitution of India, 1950.
[7] *Indian Council for Legal Aid & Advice*, (1995) 1 SCC 732.

2008, and on other hand your legal education committee prescribed age limit under Clause 28 of the BCI Rules 1975, Tell us, if somebody is 23 or 24 yrs., can he not apply?'[8]

It was questioned that Clause 28 of the BCI Rules is violative of Article 14 (right to equality), Article 19(1)(g) (freedom to carry on any profession, trade, occupation, or business),[9] and Article 21 (right to live with human dignity and to pursue livelihood of one's choice- right to life and personal liberty). Such question was not discussed in detail by the Supreme Court in the case of Rishabh Duggal, rather it removed the age limit for the academic year 2017-18.

AGE BAR TO PURSUE LEGAL EDUCATION: VIOLATION OF FUNDAMENTAL RIGHTS

Clause 28 of Schedule III of legal Education Rules 2008, deals with the prescribing the age limit for taking up the admission in LL. B 3-year course is limited to 30 years with right of the University to give concession of five further years for the applicant belonging to SC or ST or any other backward community, and in LL. B 5 year course is limited to 20 years in case of general category of applicants and 22 years in case of SC, ST and other backward community.[10] On other side, Rule 9 of the Legal Education Rules 2008 also restricts certain group of person who have attained the age of 45 years and above are barred to enter into legal profession to practice law. In the case of ***M. Santhosh Antony Vareed v. The Registrar, Tamil Nadu Dr. Ambedkar Law University, Chennai***, the Madras High Court held that the maximum age which was prescribed by Clause 28 of the Rules of legal Education, 2008 is constitutional.[11] The contradictory judgment was given by the Punjab & Haryana High Court held that rule is arbitrary as it support unreasonable classification between two classes of students who wants to pursue legal education and legal profession.[12] Since there's lot debate on the matter whether the Clause 28 or Rule 9 of the Legal Education Rules, 2008 is constitutionally valid or not, the Supreme Court has to make a stop to this controversial matter.

The big stop on this matter cannot be done without the partnership of bar and bench together. Therefore, BCI withdrawn the Clause 28 through it order 1519,[13] and removed the age bar to

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[8] *Rishabh Duggal v. Bar Council of India*, (2019) 15 SCC 343.
[9] Article 19 of the Constitution of India, 1950.
[10] Clause 28 of Rule 11 of the Rules of Legal Education, 2008.
[11] *M. Santhosh Antony Vareed v. The Registrar, Tamil Nadu Dr. Ambedkar Law University, Chennai,* 2009 (8) MLJ 1677.
[12] *Rajan Sharma v. BCI & Anr.*, CWP No. 20966 of 2010.
[13] Revive of Age Restriction Under Clause 28 of Legal Education Rules 2008, Bar Council of India, (September 17, 2016), http://www.barcouncilofindia.org/wp-content/uploads/2010/05/LE-Circular-No.-6-of-2016-BCI-1519-2016-Circular-6-Revive-of-age-restriction-under-Clause-28-of-Legal-Education-Rules-2008.pdf.

pursue legal education. This law was not only challenged before the court in the case of ***Rishabh Duggal v. BCI***, also challenged in the Madras High Court in 2015, where court held that such withdrawal was illegal, when such order was challenged by the BCI before Supreme Court, the rule under Clause 28 of Legal Education Rules 2008 was restored. However, when the matter came before the Supreme Court in year 2020, it allowed the students who are above 20 years and 30 years to pursue legal education for the session of 2017-18 and asked the BCI to examine the validity of such rule which prescribes maximum age limit.

Instances where the Court has allowed the students to appear for examination which ensured them admission to pursue law course, like:

I. In the case of ***Kanha & Another v. BCI***,[14] petitioner was restricted to appear in the CLAT 2014 examination which ensure an admission to the applicant for the LL. B 5 years course, his application was not accepted for crossing the upper age limit of 20 years. It was contended by the petitioner that even after the rule under Clause 28 Schedule III Rule 11 of the Legal Education Rules, 2008 framed by BC was already withdrawn by Resolution No. 200/2013, but computer data was not yet been upgraded due to which applicants' application was rejected despite being no restriction on age. This Rule 11 is unconstitutional and against the principle of natural justice, and the petitioner was allowed to appear in the CLAT 2014 examination, as apart from age criteria applicant fulfil other eligibility parameters.

II. Another petition was challenged filed against the Rules of Legal Education, 2008 which prescribes the maximum age limit for taking up admission to UG programme in Law Courses, and the petitioners were allowed to appear in CLAT Examination.[15]

Violation of Article 14, 19(1)(g) and 21 of the Constitution of India

Article 14 has restricted class legislation but does not prohibit reasonable classification of objects, persons and transactions, but these classifications are subjected to test of reasonable classification. In the case of *Saurabh Chaudhari v. Union of India*, the SC has laid down to conditions for any classification to pass, that are:

1. classification must be based on intelligible differentia which distinguishes person or things that are grouped together from those that are left out of group,

[14] *Kanha & Anr. v. BCI*, Writ Petition No. 18551 of 2014.
[15] *Kshitij Sharma & Anr. v. BCI*, CWP No. 2497 of 2015.

2. the differentia must have a rational nexus to the objects sought to be achieved by the executive or legislative action under challenge.[16]

By putting an age restriction on pursuing the legal education, creates an unreasonable classification between the age group of 20 years for 5-year law course and 30 years for 3-year course, and the age group of who are 21 or above years for 5-year law course and 31 or above for 3-year law course. This classification created by the rule 28 of Legal Education Rules made by BCI was not dependable material in support of the rationale on which the rule is founded and rule is discriminatory as it debars one group of person who are 45 years or above from enrolment while allowing another group to pursue legal profession, this is clearly unreasonable, arbitrary and discriminatory, hence violates the principle of equality enshrined in Article 14 of the Constitution.[17] It was agreed by the Punjab & Haryana High Court, that "*Clause 28 does make an invidious classification by dividing one class of students into two artificial and irrational classes by prescribing the maximum age for admission to law course*".[18]

Article 19(1)(g) which ensure the citizen to choose any profession of his/her choice,[19] indeed comes with reasonable restriction which itself suggests that for carrying on any profession state prescribed qualifications for carrying on any profession or technical occupation. With this is reasonable restriction it well settled law under Advocates Act, 1961 that law aspirants who wants pursue legal profession must have a law degree from recognized institution and must have completed 10+2 qualification which is internal age bar, and whoever wants to practice law before the court it is necessary for the them to pass the Bar Council exam which conducted every year by the BCI itself. But as per Section 24 of the Act there is no upper age limit prescribed for enrollment i.e., any person who holds a degree in law can take law as a profession by enrolling with its state bar council.[20] And prescribing the maximum qualification goes against the sole purpose of the Act and act against the Article 19(1)(g) of the Constitution. It is the duty of the state under the Constitution to ensure freedom to its citizen so that they can live their life to its fullest potential. Herein, the State or its instrumentality i.e., BCI have denied the citizen to pursue education in an institution of his/her choice, on the ground of applicant have crossed the maximum age limit.

[16] *Saurabh Chaudhari v. Union of India,* (2004) 5 SCC 618.
[17] *Indian Council for Legal Aid & Advice v. Bar Council of India*, (1995) 1 SCC 732.
[18] *Rajan Sharma v. BCI & Anr*, CWP No. 20966 of 2010.
[19] Article 19(1)(g) of the Constitution of India, 1950
[20] Section 24 of the Advocates Act, 1961.

So, the restriction on the age bar needs to pass the test of reasonableness and objective test. Any age restrictions on the practice of law has been held to be violative of Article 14, 19(1)(g) and 21 of the Constitution of India, an age restriction to the study of law continues to operate unabated which itself is unreasonable and manifestly arbitrary. The impugned notification as well as the impugned Clause 28 of the Rules is therefore an impediment to the realization and manifestation of Right to practice law, since it restricts the age limit to study law as a subject, and is consequently a violation of Article 14, 19(1)(g) as well as Article 21 of the Constitution of India.

It was observed by the Supreme Court in the case of ***Maneka Gandhi v. Union of India***, when the Article 14, 19 and 21 which are fundamental rights protected under Part III of the Constitution are frequently invoked when any executive as well as legislative actions suggests a direct attack on these rights.[21] Since the education plays an important part in the human development process, and denial of such education on a pernicious pretext such as age will result in the very realization of Right to live with dignity which fundamentally guaranteed to a person within the mandate of Article 21. It is also supported by the Supreme Court of India that this right to live with human dignity being an integral part of right to life under Article 21 of the Constitution does not have its limits contained to only mere animalistic existence but it extends to right to live dignity including facilities for reading and writing and right to receive instruction in a course/medium of one's choice. Therefore, every action taken by the executive as well as legislation should be within the parameters of reasonable, fair and just procedure which established by law which stands that test of other fundamental rights, not to offends, against or impairs human dignity which constitute deprivation pro tanto of right to live.[22] Reflection of dignity are found in the guarantee against arbitrariness (Article 14), the lamps of freedom (Article 19) and in the right to life and personal liberty (Article 21).[23]

Because of Clause 28, the Applicant is not being able to pursue her education through a college/university. To pursue a particular course and read is an essential concomitant of the Right to a dignified life and no citizen shall be deprived from obtaining a particular degree in any course only because of age restrictions. Denial of such a salutary constitutional guarantee is affront to both Article 14, 19 and 21.[24]

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[21] *Maneka Gandhi v. Union of India*. (1978) 1 SCC 248.
[22] *Francis Coralie Mullin v. Administration, Union Territory of Delhi*, (1981) 1 SCC 608.
[23] *K.S. Puttaswamy (Privacy-9J.) v. Union of India*, (2017) 10 SCC 1.
[24] *Yasmin E. Tavaria v. Union of India & Anr.* PIL No. 18 of 2009.

Similar, arguments have been argued before the Court regarding the age restriction which is prescribed under Rule 9 of legal Educations Rules, 2009 in the case of ***Indian Legal Aid & Advice v. Bar Council of India***, this rule being violative of Article 14, 19(1)(g) and 21 of the Constitution of India, and held that the following:[25]

i) the rationale which supports the founding of this rule has *no dependable material*.

ii) since this rule restricts certain category of person who are above 45 years to continue their practice or enter legal profession, such rule is clearly *discriminatory.*

iii) this rule clearly avoids the certain group with the vast majority who were in service of government or quasi-government or similar institution and wants to enter into legal profession, therefore, it is clearly *unreasonable and arbitrary*, hence violates Article 14 of the Constitution of India.

iv) Rule 9 as well as Clause 28 restricts right to practice law of an individual and consequently violates Article 14, 19(1)(g), and 21 of the Constitution of India.

This suggests that the Supreme Court in the case *Rishab Duggal case* when made a temporary injunction on the age bar put on by the Clause 28, was right in action, as it is violating all three golden rule of constitution i.e., Article 14, Article 19 and Article 21 of the Constitution, and it should be completely removed from the BCI Rules. Another attempt was made by the Bar where they introduced a new set of rules the draft of the Rules of the Legal Education 2019, under which it clearly mentioned that there is no minimum age requirement for the admission to three years' law degree course.[26] On the integrated Degree Program, it was stated that applicant should have completed 21 years of the age on the prescribed last date for filing application to the integrated law course, and 23 years of the age for applicants belonging to the category of SC/ST/OBC/PWD/EWS.[27]

International Perspective:

As per the American Bar Association, the law school education for the applicants, each applicant should be required to have successfully completed at least three-fourths of the work acceptable for a UG degree from affiliated college or university beginning the study of law.[28]

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[25] *Indian Legal Aid & Advice v. Bar Council of India,* (1995) 1 SCC 732.
[26] Rule 6 of the Draft of the Rules of Legal Education, 2019.
[27] Ibid.
[28] *Comprehensive Guide to Bar Admission Requirements 2018*, American Bar Association Section of Legal Education and Admissions to the Bar, National Conference of Bar Examiners,

As for the applicants to take up the admission to practice, must have LL.B. degree from a law school approved by the American Bar Association. There is no alternative for a formal legal education, not even age or years of experience in the field. It is clear from the Comprehensive Guide to Bar Admission Requirements 2018, there's no maximum age prescribed under for the law aspirants to take up the admission to practice law and legal education. Anyone applying to law school must submit their complete academic transcripts and preferably at least one letter of reference from a professor. According to the Law School Admission Council, although the majority of candidates are under the age of 25, around 20% are 30 or older, and many older law school graduates develop rewarding second careers that rely upon their prior experiences and education.[29]

A UK degree or other level 6 qualification, or an application for an equivalency based on other credentials or experience, plus 2 years of qualifying work experience are required for entrance to the Solicitor Qualification Examination in the United Kingdom.[30] Two A-levels are often required for admission to law school, with three A-levels and A-grades in the most popular subjects being preferred. Hence it is clear from the eligibility criteria that there's no maximum age limit prescribed for the law aspirants to take up admission in law colleges/university or practice law in UK jurisdiction, as per UCAS (Universities and Colleges Admissions Service).[31] Even in the jurisdiction of Australia, there's no maximum age for taking up the admission for law course and practice law in Australian jurisdiction.[32]

The jurisdiction like UK, USA and Australia does not prescribe any age limit for the law applicants to pursue the legal profession. This is even evident in the jurisdiction like Indonesia, Philippines where the law applicants must be 25 years and 21 years of age, respectively. However, the jurisdiction of Greece has put on upper limit for the advocates to enrolled before the bar meaning thereby the advocate must enroll under 35 years of age.

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https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/2018_ncbe_comp_guide.authcheckdam.pdf.

[29] Gabriel Kuris, *Advice for Older Law School Applicants to Consider*, US News Education, (December 5, 2022), https://www.usnews.com/education/blogs/law-admissions-lowdown/articles/advice-for-older-law-school-applicants-to-consider.

[30] Solicitor Regulation Authority, https://www.sra.org.uk/.

[31] Ibid.

[32] *Admission and practising in Victoria*, Melbourne Law School, https://law.unimelb.edu.au/students/career-services/steps-to-practising-law#Victoria.

POWER OF BCI TO MAKE RULES: *ULTRA VIRES* THE CONSTITUTION?

By looking the relevant provisions of the Advocates Act, 1961 and Bar Council of India Rules 1975, one position is clear that there is no mention of the power over the Bar Council of India to frame such rules. That Section 7 of the Act which talks about the function which needs to be performed by the Bar Council of India, and such provision thereof does not ensure its power to exercise to frame any such rules which prescribes the maximum age limit to pursue legal education.[33] The clause 28 of the Legal Education Rules, 2008 by the Bar Council of India, such rule in question is challenged before the Supreme Court in the case of *Rishabh Duggal case* and Rule 9 was constitutionally challenged in the case *Indian Council of Legal Aid & Advice case* was held to be arbitrary and violative of Article 14 of the Constitution of India. However, question still exists that whether the power of Bar Council of India is ultra vires the Constitution or not in passing such rule which clearly violates the fundamental rights of the aspirants who wants to pursue the legal profession. **Prabakaram Committee** recommended with regard to Clause 28, Rule 11 that there should not be any restriction be imposed on admissions,[34] also in the Rishabh Duggal case it was argued that Prabakaran Committee recommended that incorporation of Clause 28 to the Rules is beyond the legislative competence of the BCI and ultra vires of Section 7, 24 and 49 of the Advocates Act, 1961.[35] However, the Bar Council of India as per its rule making power, restored Clause 28, which renders the Applicant to seek admission in any college, pursuant to which its' impossible for her to practice law or take law as a profession which is fundamental right under Article 19(1)(g) of the Constitution.[36]

With regard to rule making power to the Bar Council of India to make any rule with regard to the legal education can see be through Section 7(1)(h) and (i), Section 24(1)(iii) and (iiia), and Section 49(1)(af), (ag) and (d) of the Act which ensured the power on the Bar Council to make such rules which promote legal education, to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils, and to prescribe minimum qualifications required for admission to a course of degree in law in

[33] Section 7 of the Advocates Act, 1961.
[34] Report of the Central Advisory Board of Education (CABE) Committee on Autonomy of Higher Education Institutions, Ministry of Human Resource Development Department of Secondary and High Education Government of India, June 2005.
https://www.education.gov.in/sites/upload_files/mhrd/files/document-reports/AutonomyHEI.pdf.
[35] *Rishabh Duggal v. BCI & Anr.* (2019) 15 SCC 343.
[36] Article 19 of the Constitution of India, 1950.

any recognized University.[37] Indeed Section 49(1)(af) prescribes only to make rules for the minimum qualification to prescribes for taking up admission to pursue legal course in any recognized University,[38] but it did not intend to suggest to make rules on prescribing the maximum qualification or maximum age limit for taking up legal course. It is clears from this section is Section 28[39] which deals with the powers of the Bar Council of India to make rules to carry out the purposes of the Chapter dealing with admission and enrolment of advocates, that legislature did not think it fit to clothe the BCI with power to prescribe maximum qualification for taking up the legal course.[40]

Whether it is a Rule 9 or clause 28 of the legal Education Rules, both putting age restriction to enter in legal profession, these rules clearly not suggesting the reasonable restriction supporting the principle of general public's interest. These rules are clearly violating the fundamental rights of the law aspirants who wants pursue legal profession, and such violation raises a common question reading the legality and validity of the impugned rules. Subject to put maximum qualification for entering into any profession rest with the legislatures only, which is clearly from the Section 49(1)(af) of the Act, and from the abovementioned rules it is apprehended that it does not appear to be a genuine or a reasonable excuse to justify the unreasonable action of the BCI, that they have done with the object of the Act.

In the case of ***J Sampath Kumar v. Bar Council of India,*** it was argued before the court that BCI is not in the power to make rules of the nature, that is vested with the Parliament by the Constitution of India.[41] That such rule 9 and clause 28 of Rule 11 is clearly creating a bar for the students who belong to underprivileged and oppressed section of society to opt out from choosing to complete law degree and enrolling themselves as an advocate at the bar for the purpose of practicing law before the Court, more with the view to appease certain vested interests than being really in the larger public interest. When the BCI withdraws the Clause 28, and made an amendment to the rule and increased the maximum age from 20 years to 22 years for pursing the integrated program and 30 years for the 3 year law course, it was held invalid by the Madras High Court as due procedure laid down under the Advocates Act, 1961 and the BCI Rules, 1975 was not followed while making the said amendment, it was held by the Court when the legislative competence of the BCI to frame rules regarding the upper age limit for

[37] Section 49 of the Advocates Act, 1961.
[38] Id.
[39] Section 28 of the Advocates Act, 1961.
[40] *V Sudheer v. Bar Council of India & Anr.*, 1999 (3) SCC 176.
[41] *J Sampath Kumar v. Bar Council of India*, (1994) 2 MLJ 651.

admissions in law schools was questioned.[42] It was used as an example by stating that when at the age 58 years a person who have no legal qualification and no experience in practice law can sit with the Judicial Member in the Tribunal to decide the case, then it would not be justified to put a ceiling limit of 45 years for enrolled as an advocate.[43] And if any restriction is to be done with respect to the maximum qualification should vests with the Parliament only, BCI not empowered under the Act nor the Bar did not present justify any valid reasons to exclude such category of the persons. It was used as an example by stating that when at the age 58 years a person who have no legal qualification and no experience in practice law can sit with the Judicial Member in the Tribunal to decide the case, then it would not be justified to put a ceiling limit of 45 years for enroll.[44] Hence, it is clears that since the legislature did not intend to give power to BCI to make rules for the nature based on age fixing upper-limit, and it can only be done by the Parliament through the amendment of the Act itself ensured under the Constitution.

Regarding the power of BCI to introduce such rule, a complaint has been filed before the Competition Commission of India regarding BCI using its dominant position by introducing the Clause 28 of the Rules of Legal Education, 2008, which restricting the certain age group who wants to pursue law course by prescribing the maximum age limit to enter legal education. That such impugned rule introduced by the BCI is illegal and void ab initio, also BCI is misusing it dominant position to introduce such rule and therefore heavy penalty must be levy on BCI for the willful violation of Section 4 of the Competition Act, 2002.[45]

CONCLUSION

Clause 28, Rule 11 and Rule 9 of the Legal Education Rules, 2009, does have sense of violating the fundamental rights like Article 14, 19(1)(g) and Article 21 of the Constitution. By such impugned rules, the law aspirants are unable to pursue their dream profession, and forced to taking up another profession. However, Rishabh Duggal case has become a stop for such violation, and looking forward, it can be ensured that age bar set by the BCI will be held illegal and void immediately, if it is introduced as proper. Another attempt to completely abolish such violative rules is Legal Education Rules, 2019 Draft, which has clearly denied the existence of

[42] *B. Ashok v. The Secretary, Ministry of Union Law, and Justice, GOI and Ors.,* 2015 SCC OnLine Mad 7004.
[43] Ibid.
[44] Supra Note 30.
[45] Akshita Saxena, *Bar Council of India Misusing Its Dominant Position: Plea in CCI Against Maximum Age Limit for LLB Course*, Live Law, (December 03, 2020), https://www.livelaw.in/news-updates/bar-council-of-india-dominant-position-cci-maximum-age-limit-llb-course-166775.

age bar on legal profession, by stating that there is no maximum age limit to enter legal profession and legal education.

Regarding power of BCI being ultra vires the constitution, many a times, the Apex Court have taken up the matter into its own hand to discuss the overlapping of the power of BCI and legislature in the cases like *V Sudheer case*, *J Sampath Kumar case*, and explained the distribution of powers between legislature and Bar. It clearly explained that to introduce of rule related nature of age is the jurisdiction of Parliament not of the Bar Council of India.

Firstly, the legislature must bring a new legislation as Advocates Act, 1961 is very restrictive legislation, and since 1961 there has been several transformations in the legal field, so there is need of more progressive legislation. Secondly, the legislation must make an amendment under Advocates Act, 1961 or into new one, to clearly mentions that there is no maximum age to pursue legal education and legal profession, so there would not have restriction on right to education ensured under Article 21-A of the Constitution of India. Thirdly, the BCI must publish the new Legal Education Rules, 2019 in the official gazette. Fourthly, a restrictive order must be issued to the State Bar Council to introduce such restrictive rules within their jurisdiction. Also, certain guidelines must be issued and published which clearly explained about the distribution of the powers of State Bar Council, and Bar Council of India.

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