

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL WRIT JURISDICTION

CIVIL WRIT PETITION NO. OF 2011

IN THE MATTER OF:

PETITIONER

ANOOP PRAKASH AWASTHI

Versus

BAR COUNCIL OF INDIA

RESPONDENT

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5.	<u>Annexure P-1:</u> Copy of the Guide to the All India Bar Examination, jointly issued by Bar Council of India and Rainmaker Training & Recruitment Private Limited, declaring that no percentage, percentile, ranking, or absolute marks will be declared dated: xx.08.2010		
6.	<u>Annexure P-2:</u> Copy of the Press Release of Mr. Gopal Subramaniam, Chairman Bar Council of India dated: 04.11.2010	—	

7. Annexure P-3

Copy of the sample Key Answer-sheet downloaded from the official website of Public Service Commission Uttar Pradesh showing how the same can be done for proposed All India Bar Examination dated: 06.03.2011.

PETITIONER-IN-PERSON

ANOOP PRAKASH AWASTHI, Advocate  
A-3, Top Floor, Right Flat, Matawali Gali,  
Rosary School Road, Radio Colony, Delhi-  
110009

FILED ON

PLACE: NEW DELHI

THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL WRIT JURISDICTION

CIVIL WRIT PETITION NO. OF 2011

IN THE MATTER OF:

**MEMO OF PARTIES**

ANOOB PRAKASH AWASTHI

S/O KESHAVA RAM

A-3, TOP FLOOR, MATAWALI GALI,

ROSARY SCHOOL ROAD,

RADIO COLONY, DELHI- 110009 .....PETITIONER

VS.

BAR COUNCIL OF INDIA

21, ROUSE AVENUE  
INSTITUTIONAL AREA,  
NEW DELHI – 110002.

.....RESPONDENT

**THROUGH**

PETITIONER IN PERSON  
(ANOOB PRAKASH AWASTHI)

NEW DELHI

28, FEBRUARY, 2011.

## SYNOPSIS AND LIST OF DATES

That in continuance of comedy of errors, Bar Council of India is coming ahead with the program of evaluating practical abilities of advocates through a theoretical examination scheduled to be held on 06.03.2011.

That petitioner is an Advocate enrolled with Bar Council of Delhi, hailing from misfortunate 2010 batch of LL.B. graduates, who despite fulfilling all statutory requirements for being a full-fledged practising advocate, is only having provisional 'Right to Practice' till clearing proposed All India Bar Examination.

That despite the best intentions that Bar Council of India may presumably have in conducting this All India Bar Examination, there is practically a mess, the way the examination is being organized and scheduled to be conducted.

That Bar Council of India has declared that they will not publish the merit list or statement of marks obtained by any of the advocate aspirant in All India Bar Examination but simply issue a certificate of "Right to Practice" only to those Advocates who may successfully clear the scheduled All India Bar Examination.

That the position taken by Respondent Bar Council of India, in not declaring the statement of marks, is illegal, arbitrary and against the established standards.

That since answer sheets are Optical Mark Recognition (OMR) sheets, it shall be checked by computer and error if any, say in computer programming may consume nearly six more months of an Advocate and thus practically ruin the future of many such young Advocates.

That in every objective type exam there always remains a probability of some answers to be erroneous and the same may be highlighted by the candidates to the exam conducting agency so that the errors may be rectified before the declaration of results.

That a minimum standard is being followed by expert examination conducting agencies like 'Uttar Pradesh Public Service Commission' by declaring answers on their website, to the objective type questions asked in the Preliminary Screening Examination and a minimum reasonable time is given to the aspirants to point out wrong answers, if any, and submit the same to commission for rectification and results are declared only thereafter. Unless the same or similar procedure is followed, the aspirants may become victims of error, if any, in conducting the examination without any means, whatsoever, for redressal.

That the advocates appearing for the scheduled All India Bar Examination, are allowed to carry their Question-booklet after the completion of exam. So, if the correct answers to the questions asked, are published in the web-site of Bar Council of India or otherwise provided to the advocates, they would be able to evaluate their position after the examination and also bring to notice the wrong answers, if any.

That in the interest of justice it is very much necessary that the Respondent Bar Council of India must declare and answers to the questions asked within a week of conducting the All India Bar Examination to enable advocate-aspirants to calculate their chances of qualifying the All India Bar examination and to make representation in case of wrong answers, if any, erroneously crept in the answer list. Bar Council of India also must declare the statement of marks with the results.

That most of the Advocates including Petitioner, who have registered themselves with the Bar Council of India for scheduled All India Bar Examination, have yet not received their admit cards/hall tickets. Bar council of India has proposed that the same shall be supplied in the examination hall. This is a glaring example of unpreparedness of Bar Council of India in conducting scheduled exam.

That the agency entrusted with the magnanimous task of conducting All India Bar Examination i.e. Rainmaker Training &

Recruitment Private Limited, is a private agency having no prior experience or expertise of conducting any such small or big examination and since "Rainmaker" has no such proven expertise or prior history in conducting such big or small examination, any mistake on their part may become a nightmare for the many advocates appearing for All India Bar Examination.

That there have had been mass agitation/litigation against the proposed All India Bar Examination, challenging its legality and the mode of it being conducted. Most of the State Bar Councils have either passed resolution against the scheduled All India Bar Examination or expressed concern over it. Further the particulars/records of agitators, mainly those of litigants including petitioner (Petitioner alongwith two others, filed a Writ Petition before Hon'ble Supreme Court challenging the legality of amendment to Bar Council of India Rules providing for scheduled All India Bar Examination, which was dismissed in limine on 2<sup>nd</sup> August, 2010) are lying with the Bar Council of India/Rainmaker. In the event of any selective victimization or sabotage to OMR answer-sheets, no shield is available to such litigants including petitioner as no statement of marks shall be disclosed by Bar Council of India/Rainmaker, except the issuing of 'Certificate of practice' to successful advocates.

That the Bar Council of India, has declared that the best three scorer in All India bar Examination shall be awarded with the prizes in the name of Shri M.K. Nambyar, Shri N.A. Palakhiwala and Hon'ble Justice Mr. H.R. Khanna. Such awards may amount pseudo-branding of certain advocates as super-talented advocates within the young lot and hence shall frustrate the purpose of very examination, which otherwise is just a screening entry level Examination. If the said examination is intended to be a competitive examination and the toppers are to be rewarded, then marks obtained by each of the candidates have to be made known.

12. 06.2010 Amendment made to Bar Council of India Rules,  
done by Respondent Bar Council of India,

providing for an All India Bar Examination were notified in Government gazette.

- xx.08.2010 The Respondent Bar Council of India alongwith Rainmaker Training and Recruitment Private Ltd. in the "Guide to the All India Bar Examination" addressed to Advocate aspirants in following terms "The results generated after the answer scripts are corrected will simply state whether an advocate has or has not qualified for Practice (that is, whether the advocate has passed or failed the AIBE); no percentage, percentile, ranking or absolute marks will be declared".
- 30.10.2010 The Petitioner submitted his Application form for All India Bar Examination with Bar Council of India.
- 12.10.2010 The Petitioner downloaded a sample Key Answer-sheet from the official website of Public Service Commission Utter Pradesh showing how the same can be done for All India Bar Examination.
- 04.11.2010 The Respondent Bar Council of India, declared that prizes would be awarded for top three positions in the in the Bar Exam.
- 06.03.2011 Scheduled All India Bar Examination to commence.

Hence this petition.

THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL WRIT JURISDICTION

CIVIL WRIT PETITION NO. OF 2011

IN THE MATTER OF:

PETITIONER

ANOOP PRAKASH AWASTHI

VERSUS

BAR COUNCIL OF INDIA

RESPONDENT

PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA FOR DIRECTING  
THE BAR COUNCIL OF INDIA TO DECLARE THE  
ANSWERS TO THE QUESTIONS TO BE ASKED  
IN ALL INDIA BAR EXAMINATION DATED:  
06.03.2011

To

The Hon'ble the Chief Justice of the High Court  
of Delhi and his Companion Judges of the said  
High Court.

This humble petition of the Petitioner above  
named:

Most Respectfully showeth:

1. That the petitioner is an advocate of 2010 batch of Law Graduates, enrolled with Bar Council of Delhi hence is competent to approach this Hon'ble Court seeking the redressal of his grievances under Article 226 of the Constitution of India.
2. That the Petitioner by this petition seeks for Respondent Bar Council of India be directed to declare answers to the question to be asked in All India Bar Examination scheduled to be held on dated: 06.03.2011 within a week from the date of



examination and statement of marks after the declaration of result and further refrain from awarding prize to the best scorers in the All India Bar Examination.

3. The brief facts leading to filing of this petition are detailed hereunder:

3.1 The Petitioner is an Advocate enrolled with the Bar Council of Delhi, and he being a Law Graduate from Faculty of Law, University of Delhi of 2010 batch, is only having provisional "Right to Practice" till clearing proposed All India Bar Examination scheduled to be held on 06.03.2011 if not stayed by Hon'ble Supreme Court of India before that date as many petitions are pending before apex court by way of a transfer petition filed by Respondent Bar Council of India.

3.2 That the respondent Bar Council of India Has categorically stated in the Guide to the All India Bar Examination addressing to Advocate aspirants in following terms "The results generated after the answer scripts are corrected will simply state whether an advocate has or has not qualified for Practice (that is, whether the advocate has passed or failed the AIBE); no percentage, percentile, ranking or absolute marks will be declared".

Copy of the "Guide to the All India Bar Examinations is enclosed as **ANNEXURE P-1.**

3.3 The Petitioner is an Advocate-aspirant for All India Bar Examination and he has submitted his application form alongwith requisite fee with Bar Council of India and his name figures in the list of candidates issued by Bar Council of India at serial no. 013912, roll no. 4619128.

- 3.4 Leading legal news website "Legally India" published a news article quoting Mr. Sankaranarayanan-spokesperson of Bar Council of India that "prizes would be awarded for the top three positions in the Bar Exam in the names of M.K. Nambyar, N.A. Palkhiwala and Justice H.R. Khanna.

Copy of the News Article dated 04.11.2010 is enclosed as **ANNEXURE P-2.**

- 3.5 Petitioner while making a research to suggest ways to overcome the messy situation visited website of Public Service Commission of Uttar Pradesh where answer keys to the objective type examination were having been published subsequent to examination and prior to declaration of results enabling the candidates for self evaluation of their position and making representation regarding wrong answers, if any, if erroneously crept in.

Copy the sample Key Answer sheets downloaded from the website of Public Service Commission of Uttar Pradesh is enclosed as **ANNEXURE P-3.**

4. The petitioner has not filed any other similar petition in this Hon'ble Court or any other Court and hence this petition on the following grounds amongst others:

#### GROUNDS

- A. BECAUSE, process of conducting the examination is completely iron curtained, non-transparent and ambiguous.

- B. BECAUSE, the respondent Bar Council of India will simply state that whether an advocate has passed or failed in the examination and declaredly no percentage, percentile, ranking or absolute marks shall be declared.
- C. BECAUSE, the position taken by Respondent Bar Council of India, in not declaring the statement of marks, is illegal, arbitrary and against the established standards.
- D. BECAUSE, the respondent bar Council of India is going to give prizes to the best three scorers in the examination.
- E. BECAUSE, procedural transparency and systemic confidence are the key to maintain dignity of and faith in the high office of Bar Council of India.
- F. BECAUSE, any mistake on the part of examination conducting agencies shall prejudicially affect the future of Advocate aspirants and thus adversely affect future of legal profession.
- G. BECAUSE, Respondent Bar Council of India/rainmaker are not experts in conducting such examination.
- H. BECAUSE, the Respondent Bar Council of India is completely unprepared to conduct any such examination.

## PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to direct the Respondent Bar Council of India:

1. To declare statement of marks scored by Advocate aspirants in the scheduled All India Bar Examination dated: 06.03.2011.
2. To declare on its website, answers to the questions to be asked in the scheduled All India Bar Examination dated: 06.03.2011 within a week of examination.
3. Refrain from awarding prizes to the best scorers in the scheduled All India Bar Examination.
4. Pass such other orders as this Hon'ble Court deems fit in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS YOUR HUMBLE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

PETITIONER-IN PERSON

FILED ON  
PLACE: NEW DELHI

ANOOP PRAKASH AWASTHI  
A-3, Top Floor, Matawali Gali,  
Rosary School Road,  
Radio Colony, Delhi-9

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL WRIT JURISDICTION

CIVIL WRIT PETITION NO. OF 2011

IN THE MATTER OF:

ANOOP PRAKASH AWASTHI

PETITIONER

VERSUS

BAR COUNCIL OF INDIA

RESPONDENT

AFFIDAVIT

I, Anoop Prakash Awasthi, Advocate S/o Sri K. Ram R/o A-3, Top Floor, Matawali Gali, Rosary School Road, Radio Colony, Delhi 110009 do hereby solemnly affirm and state as under:

1. That I am the Petitioner in Person the above matter and as such well aware of the facts and circumstances of the case and hence competent to swear this affidavit.
2. That the above accompanying Petition under Art. 226 of India has been drafted and being filed by me.
3. That I have gone through the contents of the above Writ Petition and I affirm and state that the facts stated therein are true and correct to the best of my knowledge and belief.
4. That the annexure enclosed are true copies of their respective originals.

DEPONENT

VERIFICATION:

I, the above named deponent do hereby verify the contents of the affidavit and affirm and state that the facts stated therein are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

Verified at New Delhi this ..... day of ....., 2011.

Deponent

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL WRIT JURISDICTION

CIVIL WRIT PETITION NO. OF 2011

IN THE MATTER OF:

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RESPONDENT

NOTICE OF MOTION

Vide Notice of Motion dated \_\_\_\_\_ 2011 in the aforesaid matter, you were intimated that the aforesaid matter would be listed on \_\_\_\_\_ 2011.

NOW TAKE NOTICE that the matter will be listed on \_\_\_\_\_ March, 2011 at 10.30 O' Clock in the forenoon, or so soon thereafter as may be convenient to the Court.

ANOOP PRAKASH AWASTHI

A-3, Top Floor, Matawali Gali,  
Rosary School Road, Radio  
Colony, Delhi-9

# 9891491829 #011 28745769

FILED ON

PLACE: NEW DELHI

IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (C) NO. \_\_\_\_\_ OF 2011

**IN THE MATTER OF:**

ANOOP PRAKASH AWASTHI ...Petitioner

VERSUS

BAR COUNCIL OF INDIA ....Respondent

**URGENT APPLICATION**

To

The Registrar  
High Court of Delhi

NEW DELHI

Sir,

Kindly treat this accompanying Petition as an urgent according to the High Court Rules as urgent orders have been prayed for. The matter may be listed for hearing on

-----.

**Thanking you**

PETITIONER IN PERSON

FILED ON  
PLACE : NEW DELHI

**ANOOP PRAKASH AWASTHI, Advocate**  
Petitioner-in-Person  
A-3, Top Floor, Rosary School Road, Radio  
Colony, Delhi-110009, # 9891491829  
#011 28745769