

**GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
DEPARTMENT OF LEGAL AFFAIRS**

LOK SABHA

**UNSTARRED QUESTION NO.1509
TO BE ANSWERED ON WEDNESDAY, THE 28.07.2021**

All India Bar Exam

1509. SHRI HIBI EDEN:

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether a lawyer need to qualify for All India Bar Exam (AIBE) to practice law after enrolment and if so, the details thereof;
- (b) whether AIBE Rules, framed by the Bar Council of India (BCI) violates Advocates Act and compel a lawyer to undergo AIBE even after his or her enrolment as an advocate and if so, the details thereof;
- (c) the details regarding current status of proposal to withdraw AIBE along with the time by which it is likely to be withdrawn;
- (d) whether the Government feels that Bar Council is going ahead with the examination in open book mode, which is completely unscientific and a waste of time and if so, the details thereof; and
- (e) whether the Government is aware that, in the case of V Sudhir vs BCI, and in another 1999 (3) SCC 176 cases, the Supreme Court had repealed the Bar Council Training Rules 1995 and that the BCI could not impose additional conditions on lawyers through subordinate laws and that such matters violated the provisions of the Advocacy Act, 1961 and if so, the details thereof?

ANSWER

MINISTER OF LAW AND JUSTICE

(SHRI KIREN RIJJU)

(a) The Bar Council of India (BCI) is a statutory body constituted under the Advocates Act, 1961 and is responsible for conducting the All India Bar Examination (AIBE). The BCI has informed that once a law student obtains a Law degree, and gets enrolled with any State Bar Council, to become an Advocate, he or she has a right to practice law throughout the territory of India. The All India Bar Exam is only applicable on law graduates who have passed in 2009-2010 academic session onwards and they too are entitled to start practice as soon as they enroll. It is only that they are required to clear AIBE within two years of such enrolment in order to continue to practice law. If such Advocates are not able to clear this exam within 2 years

of his/her enrolment, he/she is disentitled from practicing law till such time he/she passes such exam.

(b) The Bar Council of India has been conducting this examination as per the observation made by the Supreme Court in the case SLP No. 22337 of 2008 in the matter of Bar Council of India Vs. Bonnie FOI Law College & Ors.

The purpose of this examination is to set minimum standard for practice of law in India and access ability to practice law in India of the Advocates having basic knowledge of law and analytical ability.

The Bar Council of India, is vested with the power of laying down conditions subject to which Advocates shall have the right to practice the profession of law under the Advocate Act. 1961.

The rules framed by the Bar Council of India namely All India Bar Examination Rules-2010 do not violate the provision of Advocate Act, 1961.

The relevant provision of section 49(1) (ah) of Advocate Act, 1961 is quoted as under:-

“49. General power of the Bar Council of India to make rules.

(1) The Bar Council of India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe:-

(ah) the conditions subject to which an advocate shall have the right to practice and the circumstances under which a person shall be deemed to practice as an advocate in a court.

(c) The first All India Bar Examination was conducted in March, 2011 and so far the Bar Council of India has conducted fifteen All India Bar Examination. Moreover the matter is sub-judice before the Hon'ble Supreme Court of India in the matter titled as case SLP No.22337 of 2008 in the matter of Bar Council of India Vs. Bonnie FOI Law College & Ors. There is no proposal of Bar Council of India to withdraw the All India Bar Examination.

(d) The Bar Council of India has already conducted 15 number of examination successfully and exams have been conducted through open book exam system. It is based on the concept that Advocates have access to books and bare acts during their practice of law in courts and this exam is to check their capability in usage of various substantive and procedural laws with books and bare acts.

(e) As the matter is sub-judice the reply is covered under parts (b) and (c).
