

## **Is CLAT Committee not a 'Person'?**

- Prashant Narang

In *Justice vs CLAT Committee* – CCI Case no. 41 of 2014 dated 19.08.2014, the Competition Commission of India ('Commission') held that CLAT Committee is not a 'person' under section 2(l) and therefore not an enterprise as per section 2 (h) of the Competition Act, 2002 ('Act').

### **FACTS**

The informant alleged that the CLAT Committee, which conducts the entrance test for 14 National Law Universities (NLUs) every year, has abused its dominant position by imposing unfair and discriminatory conditions in provision of law admission test and also imposes supplementary unconnected obligations on candidates appearing for the law admission test conducted by it. From the year 2013 to 2014, CLAT committee increased the fee for the entrance test from Rs. 3000 to Rs. 4000 and the adjustable deposit amount from Rs. 50000 to Rs. 100000. Candidates failing to deposit the required fee by the specified date would forfeit their right to be considered for admission for that year and their names would be dropped from the CLAT merit list, and may only be considered for counseling in that year if the list of candidates is entirely exhausted and vacancies still remain.

### **ISSUE**

Whether CLAT Committee has abused its dominant position in contravention of the section 4 of the Competition Act 2002 is the question.

### **DECISION**

The Commission held that CLAT Committee is not an enterprise under Section 2(h) of the Act and no contravention is thus made out. As per the Commission, the Memorandum of Understanding among seven National Law Universities to conduct CLAT exam is merely an agreement and same does not create a person within the meaning of the term as defined in section 2(l). There was no material on record to indicate that CLAT Committee is an association or body created under the said MoU.

### **ANALYSIS**

As per Section 2(l) of the Act, the definition of "person" is:

(i) *An individual;*

[...]

*(v) An association of persons or a body of individuals, whether incorporated or not, in India or outside India;*

*[...]*

*(x) every artificial juridical person, not falling within any of the preceding sub-clauses.*

CLAT committee is a person as per Clause (v) and (x) of Section 2(l) of the Act. CLAT is an association of 14 (now 16) National Law Universities. As per clause (v) of section 2(l) of the Act, the association of persons, i.e. universities in the present case, does not have to be incorporated. In addition, CLAT Committee has been recognized as an artificial juridical person in various litigation matters by different high courts and therefore, undoubtedly CLAT committee is an artificial juridical person under clause (x) of Section 2(l) of the Act.

<b>S. No.</b>	<b>Case Citation</b>	<b>Case Title</b>	<b>High Court</b>
1	ILR 2009 Kar 3934	Lolaksha v The Convenor, CLAT-2009	Karnataka High Court
2	(2011) 2 All LJ 126	Vibhor Raj v The Convenor, CLAT-2010	Allahabad High Court
3	Writ Appeal 1064 of 2012; decided on June 14, 2012	Sree Govind v Registrar, NUALS, Kochi and the Convenor, CLAT-2011	Kerala High Court
4	Writ Petition no. 3208 of 2012	Ujjwal Madan v Union of India through (1) Ministry of Human Resource Development; (2) Bar Council of India; (3) Convenor, CLAT Committee; (4) Registrar, NLU-Jodhpur	The High Court of Delhi
5	Writ Petition no. 3738 of 2012; disposed on 19.07.2012	Nipun Gautam v Convenor, Core Committee, Common Law Admission Test	The High Court of Delhi

Further, CLAT Committee is also a 'group' as defined under clause (b) of Explanation to S.5 of the Act. CLAT Committee is a 'group' of 14 NLUs which directly or indirectly is in a position to control and manage the admission process of its member NLUs. As evident from the CLAT website, CLAT Committee has two sub-committees – Core Committee and Implementation Committee; both these committees have members from all member NLUs. The Core-Committee

is responsible to take decisions regarding CLAT and Implementation Committee is responsible for logistics and implementation. Therefore, it is incorrect to say that CLAT is merely an arrangement amongst the NLUs. In this case, an NLU on a rotational basis is given charge by the Core Committee to organise and manage the logistics of the test.

An appeal has been filed by iJustice in COMPAT. The matter is yet to be listed.

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