IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 600 OF 2015

IN THE MATTER OF:

Shamnad Basheer ..Petitioner

Versus

Union of India & Ors. …Respondents

ADDITIONAL AFFIDAVIT ON BEHALF OF THE PETITIONER

I, Shamnad Basheer, aged 41 years, residing at Balaji Layout, Wheeler Road Extension, Bangalore do hereby solemnly affirm and state as under:

That I am the Petitioner in the present case and that I am conversant with the facts of the case and as such I am competent to swear this affidavit.

1. The original Petition filed in Public Interest prays for the establishment of a permanent body for the conduct of the Common Law Admission Test (CLAT) in order to ensure that the CLAT exams are conducted in a consistently competent, fair, transparent and efficient manner. The contents of the original Public Interest Petition may kindly be read as part and parcel of the present affidavit and the contents therein are not being repeated herein for the sake of brevity and to avoid prolixity.
2. That the tenth edition of CLAT was conducted by Chanakya National Law University (CNLU), Patna, arrayed in the original

Petition as Respondent No 12. A total of 18 National Law Universities participated in the exam held on 14.5.2017 ("CLAT 2017").

3. That, as with previous years, the implementation of CLAT 2017 suffered from serious errors and grossly negligent conduct, which are briefly outlined below:

i) The question paper was plagued with serious and egregious errors, including a host of plagiarized questions.

ii) The mechanism to redress these errors was highly flawed and inadequate, causing grave injustice to a large number of students, whose futures were compromised in the process.

Iii) Merit lists were withdrawn in an arbitrary and ad-hoc fashion after publication, without much explanation or attempt to assuage the near panic that this caused amongst students.

iv) The CLAT helpline didn't work as it was meant to, and students were often unable to get through. Even when they did, the responses didn't help or assuage their concerns, all of which only served to exacerbate the prevalent confusion and frustration of the candidates.

v) There was complete lack of transparency in the seat allotment process, as the CLAT authorities failed to release a centralized consolidated merit list (all-India or category specific).

vi) There were serious lapses and infractions of the law when it came to seat allotments, particularly in terms of the various categories of seats (PWD seats, NRI and NRI sponsored seats, vacant seats post final counselling and the supernumerary seats reserved for candidates from J&K).

vii) The CLAT tender was awarded to the sole bidder without a proper due diligence rendering the entire process dubious and highly suspect.

viii) A number of writ petitions and complaints were filed by numerous students around the country in the aftermath of the CLAT debacle this year.

All of the above points are documented in detail in the following sections of this Affidavit.

(A) ERRORS IN CLAT 2017

I. CLAT is a multiple-choice examination with 200 questions of one mark each, with a negative marking of 0.25 for every wrong answer. The paper is divided into five sections – English, General Knowledge, Legal Reasoning, Logical Reasoning, and Math. CLAT 2017 contained multiple errors causing grave injustice to countless candidates who wrote the paper. A detailed list of errors in CLAT 2017 Question Paper is annexed herewith as **Annexure P/1 [Pages ____ to _____].**

In a paper with 200 questions, nearly 36 questions were erroneous in one way or the other (including but not limited to erroneous answers, typographical errors, questions being outside the prescribed scope of syllabus, more than one correct answer etc.) – rendering almost 20% of the paper suspect.

Further, out of the 36 wrong questions or answers, some form of redressal was provided in only 9 cases. And even where provided, these redressals were not fully fair or equitable.

II. The English section had 5 errors, including grammatically incorrect questions, wrong answers, more than one correct answer to a single question etc. In an exam as competitive as CLAT, a difference of 1 or 2 marks can make a huge difference

and mean either a top ranked NLU or one that is way down in the pecking order.

Illustratively, consider the following questions and the answer key from this section.

Question ID: **4611392707**

Question- Choose the correct spellings in options given below.

1. Remuneration
2. Renumaration
3. Renumeration
4. Remunaration

The answer (per the official answer key) was 1: Remuneration. However, the Oxford Dictionary also recognizes renumeration as a word (Source- https://en.oxforddictionaries.com/definition/renumeration).

There are clearly two correct spellings here, and students were wrongly penalized for choosing one over another. This error was not admitted by the CLAT Core Committee, and no redressal was made in favour of students who might have picked Option 3 as the correct option.

Question ID: **4611392726**

Question - Spot the error:

The officer asked that (A) the report (B) be submitted (C) immediately (D).

1. D
2. C
3. B

4. A

The given answer (per the official answer key) was 2. However, this sentence contains no errors and the CLAT authorities ultimately cancelled it. Nevertheless, one cannot ignore the fact that students would have wasted precious time trying to spot the error in the question, when there was none!

Question ID: **4611392723**

Question: In each of the following sentences four words or phrases are underlined. If there is any mistake with regard to grammar or usage, it is in the underlined part only. Identify the incorrect part:

The most (A) difficult job is to bend (B) and then lifting (C) the weight(D)

1. C
2. D
3. B
4. A

The correct answer (per the answer key) is 1. C. However, the sentence can be phrased as “The most difficult job is bending and then lifting the weight” as well as “The most difficult job is to bend and then lift the weight”.

In other words, both 1 and 3 can be correct options. CLAT favoured only one construction and did not take the other into account and students who answered with this alternative option were not awarded any marks. CLAT authorities did not even acknowledge this as an error that merited some redressal.

Question ID: **4611392727**

Question: In each of the following sentences four words or phrases are underlined. If there is any mistake with regard to grammar or usage, it is in the underlined part only. Identify the incorrect part:

The hope(A) to go through(B) the book today I have(C) almost read (D) half of it.

1. C
2. B
3. D
4. A

The correct answer (per the official key) is 3 (D). While the underlined part 'D' is incorrect because of the order of the words 'almost read', a reading of the sentence would reveal that the underlined part 'A' is wrong too. The correct beginning of the sentence should have been 'In the hope...'.

The question, thus, can have two right options. The mistake was finally admitted and marks were awarded for both answers. However, the candidates who would have skipped the question altogether in light of this ambiguity have been unfairly penalized.

It is paradoxical that a section meant to test a candidates' competence on English was itself replete with grammatical and other errors.

III. The Mathematics section, which carries a total of 20 marks had 3 inaccurate questions: *First*, a typographical error which altered the nature of the question and hence, the solution that followed and

answer arrived at were not among the options presented. The question was:

Question ID: **4611392782**

In an office, 1/3 of the workers are Men, ½ of the men are married and 1/3 of the married men have children. If ¾ of the women are married and 2/3 of the 2/3 of the married women have children, then the part of workers without children are:

1. 5/18
2. 4/9
3. 17/36
4. 11/18

The correct answer (as per the official key) was 4.

Solution-

Men with children- 1/3 of ½ of 1/3 of total workers = 1/18 of total workers

Women with children- 2/3 of 2/3 of ¾ of 2/3 of total workers = 2/9 of total workers

Total workers with children- 1/18 + 2/9 = 5/18

Total workers without children- 13/18 (which is not any of the answer option)

The answer provided in the official key assumed that the repetition of '**2/3 of'** in the second line of the question was a typographical error. Students, however, cannot proceed on such assumptions and would have solved the question reading it as it was printed.

This is an error that could have easily been avoided had the paper been proofread properly. The question was ultimately cancelled.

However, the mere redressal by deleting the question altogether does great disservice to all those who spent time trying to answer the question, as opposed to those who didn't even bother answering the question. Many candidates who suffer an aversion to mathematics or find it difficult or time consuming are known to avoid the section altogether unless they have time remaining at the end of the paper.

IV. *Secondly,* there were ambiguous questions that required assumptions to be made to be able to solve the problem. Consider this**:**

Question ID: **4611392784**

Question: 'A' and 'B' complete a work in 12 days, 'B' and 'C' in 8 days and 'C' and 'A' in 16 days. 'A' left after working for 3 days. In how many days more will 'B' and 'C' finish the remaining work?

1. 4 ¾
2. 6 ⅚
3. 7 ¾
4. 3 ¾

The given answer (per the official answer key) was 1. However, in order to arrive at that answer, one has to **ASSUME** that A, B and C started working together (a vital piece of information that is missing from the question). In the absence of this information, if one were to solve it on face value assuming that A worked for 3 days and then B and C carried on with the work, the answer arrived at would be option 3. This error in the question was never acknowledged as an error by CLAT authorities and no marks were awarded to students

who arrived at the perfectly plausible alternative right answer i.e. Option 3.

V. *Thirdly,* the syllabus issued by the CLAT authorities for the mathematics section stated: "*This section will test candidate's knowledge on elementary mathematics, i.e., maths taught up to 10th Class/standard*". However, one of the questions contained a complex question (relating to Banker's discount and true discount) that was not a part of the prescribed syllabus. The Central Board of Secondary Education (CBSE) and the Indian Certificate for Secondary Education (ICSE) – two leading national examination and certification boards in India – have banker's discount and true discount as prescribed mathematics syllabus for Class XII. The Mathematics syllabus for Class XII for CBSE and ICSE boards are annexed herewith as **Annexure P/2 (Colly) [Pages ____ to _____]**.

VI. The General Knowledge section that carries a total of 50 marks had 2 erroneous questions that contained factual inaccuracies. These were as below:

Question ID: **4611392744**

Among the following M.L.As, who was disqualified by the Governor during January 2017 under Article 192 of the Constitution for undertaking government contracts?

1. Uma Shankar Singh of Bihar
2. Jayalalithaa of Tamil Nadu
3. P.C. George of Kerala
4. Srinivas Prasad of Karnataka

The correct answer (per the official key) was 1. However, MLA Mr. Uma Shankar Singh is from Uttar Pradesh and not from Bihar. The question was ultimately cancelled.

Question ID: **4611392741**

'Scorpion kick' is a phrase used in

1. Kung Fu
2. Kabaddi
3. Kalari Fight
4. Kick Boxing

The given answer (per the official answer key) was 2. However, this phrase is also used in Kung Fu. Yet, candidates that marked this as the correct option were not awarded any marks. Fortunately, the CLAT authorities admitted this error and marks were awarded for both Kung Fu and Kabaddi.

VII. As evident, the above two errors meant that in one case, all the answers were incorrect, and in the other, there was more than one correct answer. This caused the students considerable confusion and more importantly the loss of valuable time in a paper, where even the best of candidates struggle to complete the paper within the allotted time.

VIII. Additionally, the CLAT syllabus provided that: "*The General knowledge will be tested on the general awareness including static general knowledge. Questions on current affairs will test candidates on their knowledge of national and international current affairs*."

Despite the specificity of the syllabus as provided above, the section did not contain any general knowledge question and contained only questions pertaining to current affairs.

It bears noting that in 2012, static GK was specifically removed from the CLAT syllabus, limiting the section to current affairs only. However, this section was re-introduced in CLAT 2013. An article in this regard published on 24.12.2012 in the Bar and Bench website is annexed herewith as **Annexure P/3 [Pages ____ to _____]**. Students would have spent an enormous amount of time, energy and resources in preparing for this section to ultimately not be tested on this at all. This frequent change in syllabus on an ad-hoc basis and without any credible justification makes an already inefficient process even more whimsical. The syllabus should be spelt out clearly so that students know the contours of the syllabus and prepare to the best of their abilities accordingly, without wasting precious time on portions that do not ultimately form a part of the examination.

IX. The Legal Reasoning section carries a total of 50 marks, and a candidate's performance in this section serves as one of the tie-breakers in allocating ranks in case multiple candidates have the same overall score on the test. A list enumerating the eligibility criteria for CLAT 2017 is annexed herewith as **Annexure P/4 [Pages ____ to _____]**. This makes the legal reasoning section the most important section of them all. The syllabus for CLAT 2017 published on the CLAT website is annexed herewith as **Annexure P/5 [Pages ____ to _____]** The same under the head "Legal

Aptitude" specifically stated that: "*This section will test candidate's interest towards study of law, research aptitude and problem solving ability. Questions may include legal propositions (described in the paper), and a set of facts to which the said proposition has to be applied. Some propositions may not be "true" in the real sense, candidates will have to assume the "truth" of these propositions and answer the questions accordingly.*" Notwithstanding this level of specificity in prescribing the syllabus, the section had as many as 15 questions that tested students on their knowledge of intricate Latin maxims, accounting for a whopping 30% of this section. Illustratively the following Latin maxims were expected to be known by school students who had no prior knowledge of legal niceties and were allegedly being tested for legal "aptitude": *Bona vacantia, Caveat venditor, In pari delicto, Malus animus, Punctum Temporis, Terpis Arbiter, Jus Gentium, Animus Possidendi* etc. The full format of these questions has already been reproduced in Annexure P-1 appended hereto. **.**

X. In order to test the difficulty of these Latin exams, this section of the exam was administered to top students at the various NLUs. The average score was hardly 10!

That even the top students at the various law schools could not correctly answer these Latin maxims is a testament to the sheer illogic and absurdity of an examination that aims to filter the best students with aptitude for the study of the law. These maxims don't demonstrate aptitude but prior learning of the law, and more worrying, a blind cramming of legal content, a process that has now

engendered a CLAT coaching industry.In short, it is submitted that it is grossly unfair, unreasonable and arbitrary to expect high school students to come prepared for this level of legal proficiency. A compilation showing the marks of students from various top law schools who attemptedanswering the questions on legal maxims is annexed herewith as **Annexure P/6 [Pages ____ to _____]**.

XI. The Logical reasoning section was riddled with the most number of errors, with as many as 11 out of the total 40 questions (comprising nearly 30% of the total questions in the section!) containing grossly negligent mistakes and inaccuracies as detailed below.

1. Some questions had very basic errors, that might have been avoided with some basic proof reading and cross checking. Illustratively consider the following question:

   Question ID: **4611392856**

   Directions: Read the following information carefully and choose the appropriate option in the questions given below.

   i. There is a group of five persons – A, B, C, D and E.
   ii. One of them is a Singer, one is a Dancer, one is a Painter, one is a Teacher and one is a Doctor.
   iii. Three of them – A, C and Doctor prefer rice to chapatti and two of them – B and the Painter prefer chapatti to rice.
   iv. The Teacher, D and A are friends to one another but two of these prefer chapatti to rice.
   v. The Singer is C's brother.

   Who is a Teacher?

   1. E

2. D
3. C
4. B

The answer (per the original answer key) was 3 (C). However, the correct answer is 4(B). This was subsequently redressed by the CLAT authorities. Had the authorities been more diligent at the time of setting the paper, this could have been easily avoided.

2. Secondly, some of the questions had answer options that did not follow from the patterns provided and left the question vague and open to multiple interpretations/answers. Illustratively consider the following:

   Question ID: **4611392872**

   John wants to go the university. He starts from his house which is in the East and comes to a crossing. The road to his left ends in a theatre, straight ahead is the hospital. In which direction is the University?

   1. North
   2. East
   3. South
   4. West

The given answer (per the official answer key) is 1.

In order to arrive at this supposedly correct answer one has to make a number of assumptions. Firstly, while the question states that the house is in the “east”, it does not state “east” in relation to what? Directions are always relative. One has to therefore first

assume that the house is “east” relative to the University. Secondly, one has to assume that the University is in a distinctly different direction from the hospital. Why cannot the University be in the same direction as the hospital? On what basis does one make the alternative assumption that it is not so? The question therefore suffers a high degree of uncertainty and vagueness and students were unduly penalised for not making these unwarranted assumptions and getting it right. This would have only resulted in wasting precious time of the candidates. The CLAT authorities did not admit that the question was erroneous.

3. Thirdly, as with some of the other sections, there were also questions with multiple right answers, and not just one correct option. Consider the following:

   Question ID: **4611392876**

   Pointing to a girl in the photograph, Ram said, ‘Her mother`s brother is the only son of my mother's father’. How is the girl`s mother related to Ram?

   1. Mother
   2. Aunt
   3. Sister
   4. Grandmother

   The given answer (per the official answer key) was 2. Here, the girl’s mother could either be Ram’s aunt or Ram’s mother depending upon the number of daughters that Ram’s mother’s father had, a fact that is not mentioned in the question. In fact, the CLAT authorities originally said that the correct answer was aunt

and later changed it to mother, disregarding aunt. In both cases, students are unfairly penalized. Further, there would be students who would have skipped answering the question altogether in light of this ambiguity and thus would have lost marks in either scenario.

Question ID: **4611392898**

Identify the statement which cannot be accepted

1. Odyssey is an ancient epic
2. Almost one third of the human body is made up of water
3. Human race will become extinct sooner or later
4. The earth revolves around the sun in 366 days

Firstly, one is not sure what is meant by “not accepted”. Accepted by whom? The majority of the population? Experts/Scientists? This conundrum becomes evident when one considers the statement that the “human race will become extinct sooner or later”. There are some who contest this proposition and argue that humans will continue to flourish for all time to come. (see: http://www.hercampus.com/school/u-toronto/scientists-say-humans-may-soon-live-forever) Reputed futurists such as Ray Kurzweil are in fact working on immortality and predicting that it might be closer than we expect (http://www.nytimes.com/2013/01/27/magazine/ray-kurzweil-says-were-going-to-live-forever.html; https://www.v3.co.uk/v3-uk/blog-post/2189709/humans-live-foreverin).

Even if one assumes that the question means to ask for “statements which are not factually correct”, there are multiple correct options here. The answer key stated option 2 to be the

correct one. While the second option is certainly false (since water comprises more than 50% of the body), the fourth option is also equally false. It is a scientifically proven fact that the Earth revolves around the sun in around 365.25 days (the reason why we have leap year every four years). This gives rise to more than one correct answer. This error was **NOT** acknowledged as an error by the CLAT authorities and students who marked the equally plausible alternative option (option 4) were penalised and marked negatively.

4. Fourthly, the syllabus provided that the section seeks to "*test the candidate's ability to identify patterns, logical links and rectify illogical arguments. It may include a variety of logical reasoning questions such as syllogisms, logical sequences, analogies, etc.*" However, questions were asked that tested the candidate's grasp of the English language and General Knowledge (knowledge of facts instead of logical inferences). Consider the following question:

   Question ID: **4611392883**

   A person who renounces religious or political belief or principle is called:

   1. Apostate
   2. Apostle
   3. Antiquarian
   4. Ascetic

   This was **NOT** acknowledged as an error by CLAT authorities. While the defence may well be that this question is still within the overall purview of the CLAT syllabus (given that it tests proficiency

in English), the fact that it found itself in the “logical reasoning” section and not the English section demonstrates the sheer callousness with which this paper was set.

5. *Fifthly*, certain questions made logical leaps that required candidates to bridge that gap by making assumptions, hitting at the very raison d’etre of a section meant to test one’s logical aptitude. One would have thought that the purpose of learning the law was to contest assumptions. Consider this:

   Question ID: **4611392869**

   Pointing to a photograph, Prakash said, ‘She is the daughter of my grandfather’s only son’. How is Prakash related to the girl in the photograph?

   1. Brother
   2. Cousin
   3. Uncle
   4. Father

   The given answer (per the official answer key) was 1. The question wrongly assumes that the grandfather will only be the paternal grandfather. If the grandfather in this case was Prakash’s maternal grandfather, Prakash and the girl would be cousins. CLAT authorities did not admit this mistake and deducted marks for all the students who selected 2 as the answer – despite the fact that option 2 was a perfectly valid and logical answer.

XII. It is submitted that the above errors constitute an extremely high error rate for a paper of the level of prestige and importance as CLAT. It renders the paper suspect and hampers its ability to

screen out competent candidates for the study of law. Further, it also renders the marks and subsequent ranks granted arbitrary, unfair, and inaccurate, reducing this test to one of mere luck and chance, and not a serious test of one's aptitude.

(B) **BLATANT PLAGIARISM IN THE CLAT 2017 QUESTION PAPER**

It is submitted that as many as thirty five questions in the CLAT 2017 question paper were copied from various sources – books, question papers of previous competitive exams, online websites etc. This clearly demonstrates that the sheer incompetence of the paper setting process and those involved. What makes this even more egregious is the fact that some erroneous questions were also blindly copied from online sources, replete with the errors. A list of all questions that appear to have been plagiarized in CLAT 2017 is annexed herewith as **Annexure P/7 [Pages ____ to _____]**. It bears noting that these 35 instances of plagiarism are limited to those that were detected through an online search (through google etc.)

It is submitted that this number is likely to shoot up significantly, were a similar exercise to be carried out for all physical sources as well (books on CLAT training, coaching material and mock exams from various institutes, other competitive exam papers etc.).

All of this demonstrates the sheer degree of callousness with which the CLAT conducting NLUs treat the exam. A permanent institutional structure with permanent competent staff might have guarded against these grossly negligent errors and mishaps.

(C) **FLAWS IN CLAT REDRESSAL MECHANISM**

I. The CLAT committee attempted to tide over its grossly negligent errors in the CLAT paper by awarding equal marks to all candidates for some of the faulty questions. However, there were serious lapses here too. First, the procedure provided for registering grievances mandatorily requires the complainant to attach proof or sources substantiating why they believe a particular answer is incorrect and why another option is correct. This procedure does not attend to the situation wherein the question itself is wrong or contains a typographical error, or missing information. For example in Question ID 4611392784 (Mathematics), a vital piece of information is missing, without which a candidate cannot logically arrive at any correct answer.

Q. **'**A' and 'B' complete a work in 12 days, 'B' and 'C' in 8 days and 'C' and 'A' in 16 days. 'A' left after working for 3 days. In how many days more will 'B' and 'C' finish the remaining work?

1. 4 ¾
2. 6 ⅚
3. 7 ¾
4. 3 ¾

The given answer (per the official answer key) was 1. Now, one can only arrive at this answer if one were to assume that A left after working for 3 days 'along with B and C' – a vital piece of information that was clearly missing. In the absence of this assumption, the answer arrived at will be 7 ¾.

There is no scope to provide ‘proof’ or objective ‘evidence’ of such an error, yet the question is fundamentally flawed. Similar situations arise with Question Ids 4611392782 (Mathematics), 4611392784 (Mathematics) 4611392726 (English), 4611392701 (English), 4611392856 (Logical Reasoning), 4611392872 (Logical Reasoning)**,** 4611392876 (Logical Reasoning), 4611392888 (Logical Reasoning) and 4611392898 (Logical Reasoning) which have already been shown in Annexure P-1 appended hereto.

II. Furthermore, at least 20 errors have been identified in the Question Paper and/or Answer Key (excluding the 15 legal maxims that were asked). However, the CLAT Committee has addressed only 8 of these errors and attempted to redress the situation as below:

i) by cancelling the 4 questions and reducing the total marks to 196 instead of 200,

ii) changing the correct answer for 2 questions; and

iii) accepting 2 correct answers for 2 questions.

No explanation has been provided for the refusal to consider the other errors, widely acknowledged to be errors by a number of commentators. Two Articles from reputed legal websites quoting various commentators highlighting the errors in CLAT 2017 is annexed herewith as **Annexure P/8 (Colly) [Pages ____ to _____]**. Illustratively consider the following errors that are obviously wrong.:

Question- Choose the correct spellings in options given below.

1. Remuneration

2. Renumaration

3. Renumeration

4. Remunaration

Only 1 accepted as right answer.

Question ID: **4611392869**

Pointing to a photograph, Prakash said, ‘She is the daughter of my grandfather’s only son’. How is Prakash related to the girl in the photograph?

1. Brother
2. Cousin
3. Uncle
4. Father

Only 1 accepted as the right answer.

Question - Pointing to a girl in the photograph, Ram said, ‘Her mother`s brother is the only son of my mother's father’. How is the girl`s mother related to Ram?

1. Mother
2. Aunt
3. Sister
4. Grandmother

Only 1 accepted as the right answer.

Further, this limited response does nothing to redress the sheer inequity and injustice meted out to students who spent considerable extra time attempting to answer flawed questions, or contending with flawed answer options.

III. As the portal to file objections can only be filed after logging in via a Candidate ID and password, the window to raise objections is

very restricted in nature. It also bears noting that candidates were given a very limited window of only 2 days (May 17-May 19, 2017) to file their objections. A webpage from CLAT website showing the CLAT Calendar is annexed herewith as **Annexure P/9 [Pages ____ to _____]**

IV. The CLAT 2017 Convenor reiterated in an interview that objections could be filed only by CLAT *candidates* through the candidate log in portal An article carrying interview of CLAT Convenor is annexed herewith as **Annexure P/10 [Pages ____ to _____]**. He further explicitly stated that any objections sent in to the Official CLAT Email ID will not be entertained, thereby shutting out the possibility of other experts and public spirited citizens pointing out errors. V. Thus, not only is the opportunity to file objections restricted, but the CLAT Committee has also arbitrarily refused to acknowledge various other obvious errors pointed out by a number of experts and students. It is humbly submitted that the mechanism provided by the CLAT Committee to redress the various errors in the question paper and answer key is grossly ineffective. The conduct of the CLAT Committee this year demonstrates a high degree of incompetence, callous disregard for accuracy, negligence, arbitrariness, and worrisome opacity.

(D) **ADMINISTRATIVE/TECHNICAL FAULTS IN THE CONDUCT OF CLAT 2017**

I. Several instances of technical errors in the administration of the exam have been reported. Illustratively, many candidates stated

that despite attempting certain questions, their answers were not taken into consideration in the awarding of marks to the candidate, resulting in a huge drop in their final scores. This glitch, for no fault of their own, grossly prejudices the candidate and effectively nullifies their participation in a standardized, competitive exam. Narratives of two Candidates who attempted CLAT 2017 highlighting the several instances of errors in the administration of the exam are annexed herewith as **Annexure P/11 (Colly) [Pages ____ to _____]**.

II. Candidates have also reported issues with the online portal wherein the screen would blur out or freeze for a second or two, while the candidate was reading a question. Cumulatively, such technical errors cost the aggrieved candidates 3-4 minutes of lost time. This number is significant in an exam where time is of essence, as 200 questions need to be answered in 120 minutes and the best of candidates often find it difficult to complete the full paper in time. An article regarding the challenge by a student before the Hon'ble High Court of Delhi for cancellation and rescheduling of CLAT 2017 is annexed herewith as **Annexure P/12 [Pages ____ to _____]**.

III. These technical issues have been reported across multiple centres demonstrating that the root of the problem lies in the poor quality online portal deployed by the CLAT Committee to conduct this exam.

(E) **WITHDRAWAL OF CLAT MERIT LIST AND SUBSEQUENT MISHANDLING OF OFFICIAL HELPLINE.**

I. After publishing the first list of allotment of colleges on June 5, 2017, the CLAT Committee withdrew it stating, "*certain errors were spotted in the List*", and notified that the revised list would be published on June 6 (11 pm). The date of online payment of counselling fee was also subsequently extended. The CLAT authorities did not elaborate on the type of errors in the list. However, it missed the June 6 deadline to publish the revised list and uploaded another notification postponing the date of release of the rectified results to June 7 and extended the date of payment to June 10. However, the revised notification was removed from the website soon after it was published, thereby increasing the confusion and anxiety in the minds of the students. An Article from Legally India reporting the withdrawal of allotment list due to errors in CLAT 2017 is annexed herewith as **Annexure P/13 [Pages ____ to _____]**.

II. The revised list that was subsequently published was also wrought with errors – candidates who held ranks under reserved categories were listed as unreserved category candidates and allotted no colleges. Due to the aggravated confusion and helplessness, aggrieved students called the official CLAT Helpline, but were informed that it was the updated rank list. Students were also given different answers as to the last date for payment of counselling fees of INR 50,000 (including mentioning that the dates had been revised on the website when in fact they hadn't). A report of Legally India highlighting the confusion caused by candidates at the hands of CLAT Helpline is annexed herewith as **Annexure P/14 [Pages**

____ **to** _____**]**. This only goes on to further highlight the incompetent, inefficient and highly callous attitude of the CLAT authorities.

(F) LACK OF TRANSPARENCY IN SEAT ALLOTMENT PROCESS

I. Admissions for CLAT 2017 were done through a centralized counseling platform. However, unlike some of the previous years, CLAT 2017 did not release a consolidated rank list. Instead, a university-wise indicative list based on merit-cum-preference of candidates was published.

II. As a result, the process for allotment of seats was very opaque and lacked transparency. A candidate allotted to a particular NLU would not be aware of his/her chances of being upgraded to a higher NLU in subsequent allotment lists.

III. Moreover, without a consolidated rank list, there was no method of verifying the allotment of seats under various horizontal (PWD, women) and vertical (general, scheduled castes, scheduled tribes, etc.) categories. This made the process of identifying errors in allotment extremely difficult, if not practically impossible.

IV. Illustratively, a candidate Saikh Jiyarul Hoque applied under the SAP category and the same was reflected in his admit card too. However, when results were declared, his category reflected as ‘Unreserved’. On contacting CLAT office repeatedly, he was informed that the correct category would reflect only once he was allotted a seat to a college and not otherwise – this serves no purpose other than exacerbate the prevalent confusion and anxiety as candidates would (rightly) feel that the CLAT office had not

recorded their categories correctly. This also helps shield any errors or corrupt practices as there would be no way to cross-check whether the student who was ultimately allotted the seat was in fact entitled to it or not. It was only in the 4th list that Mr. Saikh Jiyarul Hoque was allotted NLU, Odisha and his category was reflected correctly. Until then, his candidature continued to reflect in the 'Unreserved' category.

V. Further, even the processing of refunds after closure of the counselling and allotment process lacked transparency and was terribly handled. Surprisingly, the last date for withdrawing admissions (June 21, 2017) was before the release of the fourth merit list (June 24, 2017). Thus, without knowing whether the students had a chance to be upgraded to a better college, they had to make a decision to either withdraw from the process prematurely, or stay in it and lose their deposit of INR 50,000 if they did not ultimately get a college of their choice. Even for students who withdrew their admission by June 21, 2017; multiple rounds of follow-up had to be done (through phone and email) for them to get a refund of their deposit. In another case, a candidate Anoop Kumar who was allotted NALSAR University of Law, Hyderabad through the CLAT counselling process did not take up admission there. NALSAR confirmed that the counselling fee of INR 50,000 had been returned to the CLAT office, but CLAT authorities did not respond to any emails on this. In fact, the office of the CLAT 2017 was shut shortly after the counselling process and the website was also taken down. With no other recourse, a student from CNLU had

to be requested to follow up repeatedly in person, and the fee was finally refunded after following up for a period of two months. This is clearly not a practical solution, and only– leaves students helpless in a bid to try and track their money.

(G) **COMPLETE MISHANDLING OF SUPERNUMERARY SEATS RESERVED FOR J&K CANDIDATES**

I. Several participating National Law Universities have 2 supernumerary seats reserved for candidates from Jammu & Kashmir (J&K). A comprehensive Break-Up of seats of all colleges under CLAT 2017 is annexed herewith as **Annexure P/15 [Pages ____ to _____]** As of June 5, 2017, the CLAT office released the first college allotment list. However due to errors, the office withdrew this list and then released another one on June 7, 2017. While this college allotment list was more or less final, the J&K list was released on June 8, 2017 on NLIU Bhopal's website. The CLAT office did not release any official rank list for this category. In such a case, students have no idea about their relative chances at the various universities that have seats under this category and have to individually follow multiple deadlines and different procedures to make their applications for seats under this category. It is humbly submitted that this should be a centralized process where seats should be allotted by the CLAT office in order of merit, and in accordance with the candidates' preference of college. Absence of a centralized, streamlined process only causes further confusion and anxiety in the minds of students; while at the same time paving way for authorities to take advantage of this opacity to

potentially admit students who may not be entitled to the seat in accordance with the merit list.

II. Gujarat National Law University set 2nd June, 2017 as their deadline for admissions. The application also mandated the payment of a non-refundable deposit of Rs. 1,000/- (One Thousand). The Admission procedure for CLAT 2017 of GNLU is annexed herewith as **Annexure P/16 [Pages ____ to _____].** As stated earlier, as of 7th June 2017, no J&K merit list had been released. This meant that the deadline for admission has already closed *before* the J&K candidates were informed of their position on the J&K reservation list.

III. The National Law Institute University, Bhopal closed its applications on the 6th June, 2017 and mandated a deposit of Rs. 50,000/- (Fifty Thousand), which is no small sum, for those candidates "whose names are mentioned in the CLAT 2017 J&K Merit List" A Notification issued by NLIU Bhopal laying down procedure for Admission under the Category of J&K Resident is annexed herewith as **Annexure P/17 [Pages ____ to _____]**. However, as mentioned before, as of June 6, 2017, J&K students were not provided with any idea of their relative ranking or list. More importantly, as of June 6th, even the regular CLAT allotment was under some doubt.

IV. As a result of this callous and unjustified delay in releasing the J&K Merit list, and the concurrent opening (and in some cases closing) of the application windows, the CLAT Committee and participating NLUs severely prejudice the candidates from J&K, giving the

candidates no certainty or predictability in the admission process, and the risk of losing their duly earned seats altogether.

(H) **FAULTY HANDLING OF NRI/NRI SPONSORED CANDIDATES' MERIT LIST**

I. It is submitted that there were serious and egregious errors in relation to the NRI/NRI Sponsored Candidates Merit List. Absence of a consolidated category-wise merit list renders the entire process of seat allotment devoid of any transparency whatsoever – students have no way to ascertain the college they are entitled to get admission in, and instead are required to look out for individual college notifications and follow different procedures for each of them. Illustratively, on 30th May 2017, the National Law Institute University Bhopal released a document titled "NRI/NRI Sponsored Merit List (as provided by CLAT 2017 Office)" on their official website and the same is annexed herewith as **Annexure P/18 [Pages ____ to _____]**. On 31st May, 2017, the same University released a Corrigendum which is annexed herewith as **Annexure P/19 [Pages ____ to _____]** stating that there could be errors in the list that they had uploaded on the previous day. The corrigendum note also encouraged candidates to apply under this quota regardless of whether their name appeared on the official NRI/NRI Sponsored merit list. This not only led to serious and severe confusion among students, but also paves the way for corrupt practices in that candidates that are not really NRI/NRI sponsored now have a shot at applying under this category. The revised NRI/NRI sponsored merit list by NLIU Bhopal that was

ultimately released 10 days later on June 9, 2017 is annexed herewith as **Annexure P/20 [Pages ____ to _____]**.

II. The above inefficiencies reflect gross negligence and leads to widespread uncertainty in the minds of candidates and their families. The windows for applications to specific NLUs opened and closed with short time frames for application. Without any confirmation from the CLAT Committee about their eligibility to apply in the NRI/NRI Sponsored Quota (in light of the errors in the first list due to which some candidates' category preference did not get recorded), candidates risk hedging their admission on the unspecific and delayed promise to release a revised merit list. This further reflects poorly on the administrative capability of the CLAT Committee as the preparation of a NRI/NRI Sponsored Merit list requires minimal administrative burden or application of mind, but merely the filtering of results of candidates who already mention their NRI/NRI Sponsored status at the time of registration for the CLAT exam.

(I) **INCORRECT PUBLICATION OF NRI/NRI SPONSORED SEATS FOR NUJS**

I. The CLAT Committee, on its official CLAT 2017 Counselling website (http://clat2017.admissionhelp.com/Default.aspx) provided a link titled 'WBNUJS NRI List'. Upon opening this link, a document opens titled 'Fourth List for Reference for WBNUJS - NRI/NRI Sponsored Candidates'. This list is annexed herewith as **Annexure P/21 [Pages ____ to _____]**. This list reflects the names of the candidates admitted to NUJS under the NRI/NRI Sponsored

category for the previous year, 2016, when CLAT was conducted by Rajiv Gandhi National University of Law (RGNUL), Patiala. The list has nothing to do with the NRI candidates for the 2017 exam and reflects again the sheer callousness and apathy in administering a professional exam in a competent manner and releasing accurate merit and category lists.

II. More egregiously, such inaccurate lists only serve to mislead candidates, who, upon not seeing their names reflected on the list, would assume that they were not allotted a seat in WBNUJS, when in fact the list has nothing to do with the 2017 exam, but predates to the 2016 exam!

(J) **DISCREPANCIES IN THE NUMBER OF SEATS RESERVED FOR PERSONS WITH DISABILITY**

I. As with previous years (documented in Annexures A-1 and A-2 to the Additional Affidavit filed by the Petitioner on September 2, 2016**)**, the seat allotment in CLAT 2017 was also in contravention of the clear provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 ("PWD Act"). Under Section 39 of the PWD Act, all government educational institutions and other educational institutions receiving aid from the Government are mandated to reserve at least 3% of the seats for Persons with Disabilities (PWD). However, it has to be borne in mind that the CLAT 2017 exam was notified on December 25, 2016. Hence, the Rights of Persons with Disabilities Act, 2016 was not applicable to CLAT 2017.

II. NLUs have been established by acts of their respective State Legislatures and are under the administrative control of the Bar Council of India. However, most NLUs are not in compliance with the provisions of the PWD Act. The CLAT website provides a break-up of seats for each NLU and the same is already annexed herewith as Annexure P/15 and from the same, the following facts with respect to reserved PWD seats are evident:

(i) No seats have been horizontally reserved for PWD by NUSRL, Ranchi;

(ii) The following colleges have rounded down decimal figures to the nearest lowest integer, while calculating the seats to be horizontally reserved for PWD:

- NALSAR, Hyderabad
- NLIU, Bhopal
- WBNUJS, Kolkata
- HNLU, Raipur
- GNLU, Gandhinagar
- RGNUL, Patiala
- MNLU, Mumbai

III. To illustrate, 3% of the total seats at NLIU, Bhopal equal 3.84 seats; however, NLIU has rounded down the decimal and horizontally reserved only 3 seats for PWD instead of 4. As has been stated earlier in the Additional Affidavit filed by the Petitioner on 02.09.2016**,** this Hon'ble Court in *State of U.P & Anr. v. Paswan Kumar Tiwari and Ors., (2005) 2 SCC 10* held very clearly that "*the rule of rounding off based on logic and common sense is: if part is one-half or more, its value shall be increased to one and if part is less than half then its value shall be ignored.*

46.50 should have been rounded off to 47 and not to 46 as has been done."

IV. It is submitted that the total number of seats reserved for PWD candidates in the above colleges would have been higher, had the 3% rule (as mandated by Section 39 of the PWD Act) been implemented in its true spirit. A table showing reservation for PWD candidates across participating colleges is annexed herewith as **Annexure P/22 [Pages ____ to _____].** The same offers a comparison of the total seats allotted to PWD candidates in each college against the total seats that should have been allotted to PWD candidates.

(K) ARBITRARY ALLOTMENT OF SEATS UNDER NRI SPONSORED CATEGORY

I. A number of law schools reserve seats for NRI, NRI Sponsored students and Foreign Nationals. As already documented in a previous submission before this Hon'ble Court (see Additional Affidavit filed by the Petitioner on September 2, 2016**)**, the procedure for allotment of seats for NRI Sponsored students violates the decision of the Supreme Court in *P.A. Inamdar and Ors. v. State of Maharstra and Ors.* (2005) 6 SCC 637 wherein a 7 Judge Bench held that NRI quota must be utilized in a bonafide manner for admitting only the children of NRIs. The court made it clear in the following passage:

> *"It was also pointed out that people of Indian origin, who have migrated to other countries, have a desire to bring back their children to their own country as they not only*

get education but also get reunited with Indian cultural ethos by virtue of being here. They also wish the money which they would be spending elsewhere on education of their children should rather reach their own motherland. A limited reservation of such seats, not exceeding 15%, in our opinion, may be made available to NRIs depending on the discretion of the management subject to two conditions. First, such seats should be utilized bona fide by the NRIs only and for their children or wards. Secondly, within this quota, the merit should not be given a complete go-by. The amount of money, in whatever form collected from such NRIs, should be utilized for benefiting students such as from economically weaker sections of the society, whom, on well defined criteria, the educational institution may admit on subsidized payment of their fee."

II. However, the eligibility criteria prescribed by most universities state that the candidate need only be an "NRI sponsored" candidate. Such a woefully liberal and dishonest construction enables almost any rich privileged student in India with some far flung nexus to an NRI to gain admission, without scoring well enough on the CLAT to merit admission unlike other candidates.

III. In keeping with previous submissions by the petitioner, it is again contended that the current NRI reservation policies followed by a number of NLUs goes against the clear dictate of the Hon'ble Court in *Inamdar* which clearly held that an NRI candidate must

be a direct ward of an NRI parent and not an NRI sponsored candidate, where the candidate's only nexus with the alleged NRI is that the NRI pays the fees (a substantially higher one at that) from their account. The Hon'ble court had in fact warned against this practice in its judgment:

> *"In fact, the term 'NRI' in relation to admissions is a misnomer. By and large, we have noticed in cases after cases coming to this Court, neither the students who get admissions under this category nor their parents are NRIs. In effect and reality, under this category, less meritorious students, but who can afford to bring more money, get admission."*

As such, incorporating an eligibility criteria which expands NRI quota to students with no bonafide NRI background and merely being sponsored by an NRI relative or friend is illegal, blatantly discriminatory and unfair to those that are forced to compete through the rigorous CLAT exam on merit.

IV. Further, to the best of the petitioner's knowledge, some of the NLUs that provide for this liberal NRI quota do not have any express policies in place to ensure that moneys received from NRI fees are used to subsidize the education of the underprivileged, as mandated by the Hon'ble court in *Inamdar*. A schedule containing eligibility criteria under NRI sponsored categories of various NLUs is annexed herewith as **Annexure P/23 [Pages ____ to _____]**.

V. In this regard, it is also important to note that the Union Ministry for Health and Family Welfare has recently decided to do away with NRI sponsored seats altogether in private medical and dental colleges. A Notice issued by the Ministry recognises that such seats are illegal under the ruling in Inamdar. The Notice states: "*NRI candidates (including OCI and PIO) are eligible for NRI Quota only and Indian nationals will be eligible for management seats only*".... "*As per Inamdar case of Hon'ble Supreme Court only bonafide NRI will be eligible for NRI quota seats. No NRI Sponsored candidates will be eligible*" The said Notice is annexed herewith as **Annexure P/24 [Pages ____ to _____].**

(L) LEGALITY/PROPRIETY OF THE TENDER AWARD TO SOLE BIDDER IN CLAT 2017

I. CNLU invited bids from prospective Service Providers for the online conduct of CLAT 2017. The tender bearing reference NIQ No. – 08/2016-17 dated 12/10/2016 laid down information and instructions to the Service Providers interested in submitting their proposals. Through an RTI filed by Patna resident Divyanshu Shekhar (submitted before the Hon’ble High Court of Patna in the matter of Divyanshu Shekhar V. Union of India & Ors. it was revealed that M/s Lore India Foundation under technical collaboration with Tata Consultancy Services (hereinafter “Lore India”) was the only bidder who participated in this process, and was ultimately awarded the bid.

II. The above PIL alleges that the bidder and, eventually, awardee – Lore India - wasn’t eligible to bid as it had been incorporated

fewer than three years before the 12 October 2016 tender was published, whereas the tender asked for the bidder to have a minimum average annual turnover of Rs 50 crore in each of the preceding three financial years, from conducting an online or computer based exam. Lore India was incorporated on 28 November 2013, according to the website of the Ministry of Corporate Affairs (MCA). An article on Legally India capturing the exposing this dubious award of tenderis annexed herewith as **Annexure P/25 [Pages ____ to _____]**.

III. According to copies of the 12 October 2016 tender and the 19 October 2016 corrigendum attached to the PIL before the Hon'ble High Court of Patna, one week after issuing the tender CNLU had relaxed the following criteria:

- Bidders were originally required to show an average annual turnover of at least Rs 50 crore in the last five financial years. This requirement was deleted in the corrigendum.
- Bidders were required to show an average annual turnover of at least Rs 10 crore from conducting online or computer-based exams in the last five financial years. This was changed to an average annual turnover of Rs 50 crore in each of the three preceding financial years, from conducting online or computer based exams.
- Bidders were required to show an infrastructure capability of at least 50,000 computers and access to at least 50 cities at the time of the tender. This requirement was deleted entirely.

Changing some of the key conditions of the tender process without providing any justifications for the same clearly renders the entire process circumspect and gives rise to suspicion as to whether the same was done to favour Lore India.

IV. The RTI (annexed to the PIL and accessible online) also reveals that Lore charged the CLAT convenor Rs 690 per candidate for conducting the CLAT. The CLAT application fee stands at Rs 4000 for general category candidates and Rs 3500 for special category candidates. Having awarded the bid to Lore India, CLAT office would only have to part with a little over Rs 3.45 crore, out of more than Rs 20 crore that it made in CLAT revenue this year.

From the above, it is clear that there are serious allegations on the very integrity of the tender process and the award.

(M) PROBLEMS WITH VACANT SEATS AT NLUs

I. Admission to the various NLUs under CLAT takes place through an online centralized counselling by the CLAT office. The CLAT office published four lists allotting seats to candidates, after which it officially closed the admission process. CLAT plays no role in filling any seats that may still be vacant at the end of the fourth round of counselling and this is left to the discretion of the individual universities to fill up as they deem fit.

II. Different universities notify their vacancies at different points of time, and individual candidates are required to keep track of all such notifications as also different dates of closing, and

application requirements for each of them. Some of these vacant seat notifications are fairly ad hoc and arbitrary and cause more stress to students who've already borne the brunt of the CLAT exam and the first level allotment process that had a number of skirmishes this year.

Illustratively, CNLU, the CLAT conducting organisation, simply said 'few' seats are still vacant (without specifying the clear number) and asked every student to submit a demand draft of Rs. 1,00,000 along with her/his application for the vacant seat. Without an idea as to the number of seats available, students cannot be expected to make any realistic assessment as to their chances of getting a seat there. A notice issued by CNLU notifying admission to unspecified number of vacant seats is annexed herewith as **Annexure P/26 [Pages ____ to _____]**.

While NLU Odisha charged an additional non-refundable and non-adjustable application fee of Rs. 1000 for an application against its vacant seats. A notice issued by NLU-O notifying admission to vacant seats is annexed herewith as **Annexure P/27 [Pages ____ to _____]**, WBNUJS charged a non-refundable application fee of Rs. 2000 from all candidates who wished to apply against the vacant seats. A notice issued by WBNUJS notifying admission to vacant seats is annexed herewith as **Annexure P/28 [Pages ____ to _____]**. Considering that students have already paid huge amounts towards the CLAT application form in the first instance (Rs. 4000 for general category students and Rs. 3500 for students from SC/ST categories), no additional fees ought to be

levied, as allotment of ALL seats should be a part of the centralized CLAT process. Notwithstanding the increased financial burden on the students, it is also an undue strain on their time and adds to the prevailing stress and confusion by keeping a tab of multiple deadlines and differing processes at each university.

Further, it is not clear if the Universities still follow the merit list in selecting students against the vacancies. It is submitted that there ought to be some accountability and transparency in this process and NLUs must be held accountable for the entire period till admissions finally close for the last student that is allotted a vacant seat.

(N) **LITIGATIONS AGAINST THE CLAT CONVENOR/ORGANISING UNIVERSITY**

I. Owing to the various instances of gross negligence and ineptitude outlined above, a number of writ petitions and PILs were filed against the conduct of CLAT this year, some of which are highlighted below:

(i) In a petition filed before the Bombay High Court (WP/1438/2017), a differently abled candidate Tathagata Ojha sought relief for not having been granted the mandated extra time of 40 minutes (as per CLAT Rules). However, the Petitioner ultimately withdrew his petition as he was found eligible to be admitted in Chanakya National Law University, Patna against a seat reserved for the Differently Abled (PWD category). The final order of the

Hon'ble High Court of Bombay is annexed herewith as **Annexure P/29 [Pages ____ to _____].** It is clear that justice has not been done in this case, as with this extra time (to compensate for his disability), the candidate may well have procured admission to a higher ranked National Law University (NLU). Unfortunately, given the short time window within which CLAT admissions at NLU"s take place and the sheer difficulty of litigating against authorities and the expenses/resources involved, candidates prefer these kinds of unjust settlements.

(ii) A Petition was filed in the Delhi High Court by Devansh Saraswat asking for cancellation and rescheduling of CLAT 2017 on account of negligence in the framing of the question paper. He reproduced all the errors in the paper as part of his writ and also pointed out various technical glitches in the conduct of the exam, viz. blurring out of computer screens during the exam, all responses marked by candidates not getting captured by the computer etc. However, the petitioner ultimately withdrew his petition as the Registry repeatedly returned it for formatting and technical defects. A Legally India Report about a GNLU Student being unable to proceed with his PIL against CLAT 2017 is annexed herewith as **Annexure P/30 [Pages ____ to _____]**.

(iii) The details of Divyuanshu Shekhar v. UoI & Ors. have already been highlighted in the sections above. This petition brought to the notice of the Patna High Court the dubious manner in which the tender was allotted to the sole bidder in CLAT 2017.