

**W. P. No.14161 (W) of 2015**  
**Sri S.K. Sharma & Ors.**

**v.**

**Maulana Abul Kalam Azad University of  
Technology & Ors.**

02.07.15  
SL-02  
(S.R.)

Mr. Kishore Dutta  
Mr. D.N. Sharma  
Mr. Mr. Shailendra Jain  
Mr. S. Pandey ... for the petitioners.

Ms. Nandini Mitra  
Mr. Sanjay Saha ... for the University.

Mr. Subhamay Bhattacharya  
Mr. Arkajyoti Das ... for the Board.

The subject matter of challenge in the instant writ application is an order dated 18<sup>th</sup> June, 2015 passed by the respondent no.6.

Mr. Dutta, learned senior counsel appearing for the petitioners submit that it would be explicit from the Fact Finding Committee (hereinafter referred to as the said Committee) report that the said Committee suggested that some punitive action should be taken against the Bengal College of Engineering & Technology (hereinafter referred to as the said 'BCET') and the Bengal College of Engineering and Technology for Women (hereinafter referred to as the said 'BCETW') and that such suggestion is beyond the terms of reference and that the said report deals with an issue of termination of the teachers of the said Colleges and on the basis of the same the respondent no.6 could not have imposed a punishment of reduction

of the UG seats of the colleges.

He further submits that the objections to the said Committee report have not been appropriately considered by the Executive Council of Maulana Abul Kalam Azad University of Technology (hereinafter referred to as the said University) and that though there was no complaint from the students or parents in regard to the academic affairs of the said Colleges, the Executive Council illegally took a decision to curtail the sanctioned strength of students for the academic year 2015-16.

Drawing the attention of this Court to the impugned order at page 662, he submits that the Emergency Executive Council itself admitted that the issue as regards termination of teachers is beyond its jurisdiction and that on the basis of Clauses 6(a), (b) and (c) of Chapter I of the Regulations Governing Academic and Associated Activities (hereinafter referred to as the said Regulations) no order could have been passed towards curtailment of intake of capacity of the said Colleges and that such punishment could not have been issued without grant of any opportunity to the said Colleges to remedy the breach, if any.

Ms. Mitra, learned advocate appearing for the said University disputes the contentions of Mr. Dutta and submits that upon granting an opportunity of hearing and

upon considering the reply filed by the petitioners to the report of the said Committee, the order has been passed and there is no infirmity in the decision making process.

She further submits that the said Committee was constituted to assess the present status of the said Colleges and to examine the charter of demands and to avail suggestions as regards the academic affairs and for restoration of normalcy in the said Colleges and that as such the allegation of jurisdictional error towards constitution of the said Committee is absolutely unfounded.

She further disputes the contention of Mr. Dutta that the said Colleges were not given any opportunity to remedy the breach and submits that appropriate opportunity was given to the Colleges, as would be explicit from the observations of the said Committee's report at page 621 of the writ application but the authorities of the said Colleges did not respond.

She further submits that the interest of the students needs to be taken into consideration prior to grant of any interim order.

Mr. Bhattacharya, learned advocate appearing for the West Bengal Joint Entrance Examinations Board (hereinafter referred to as the said Board) submits that counselling has already started and that the first date for

choice locking is scheduled on 5<sup>th</sup> July, 2015.

I have heard the learned advocates appearing for the respective parties and I have considered the materials on record.

Prima facie, the suggestion of the said Committee to take punitive action against the Colleges is beyond the terms of reference inasmuch as the enquiry was restricted to the issue of examination of the charter of demands pertaining to termination of teachers. The said Committee itself records that some lacuna existed on the part of the University itself in conducting inspection of the Colleges and that there were some weakness in the functioning of the office of Inspector of Colleges of the said University and on the rudiments of such findings the suggestion of the said Committee to the respondent no.6 for taking punitive action against the Colleges appears to be unsustainable.

In the event, no interim order is passed and the writ application ultimately succeeds, the petitioners, for the consequential efflux of time, would be faced with a fait accompli and it would not be possible for the petitioners to admit students afresh.

At the same time for the purpose of grant of an interim order, the Court is also required to put into the scales the need to protect the interest of the candidates,

who would apply for admission, in the event the writ application ultimately fails inasmuch as in such eventuality, it would be difficult for the candidates to pursue the concerned courses.

Upon a comparative assessment of the consequences to be faced by the respective parties and the candidates, in the event of ultimate success or failure in the proceedings, I have arrived at a prima facie satisfaction towards issuance of an interim order.

Accordingly, the respondents are restrained from giving effect or further effect to the decision adopted by the Emergency Executive Council of the said University on 18<sup>th</sup> of June, 2015 till the end of August 2015 or until further orders whichever is earlier.

However, the candidates must be made aware of the pendency of the instant writ application and the interim order as passed and accordingly I direct the petitioners to post such fact in their respective websites and to make proper publication in two local newspapers by 5<sup>th</sup> of July, 2015.

The respondent Board and the said University authorities are also directed to post the fact of pendency of the writ application and the interim order as passed, in their respective websites.

The respondents would be at liberty to file an

affidavit-in-opposition within a period of four weeks from date. Reply thereto, if any, be filed within a week thereafter.

The matter will be treated as ready for hearing after expiry of the period as fixed above towards exchange of affidavits and the parties would be at liberty to mention the matter, upon notice, for final hearing before the appropriate Hon'ble Court.

Let a plain copy of this order duly countersigned by the Assistant Registrar Court be made available to the learned counsel appearing for the parties on usual undertaking.

(Tapabrata Chakraborty, J.)