

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 09.08.2010

+ **CS(OS) 509/2010, I.A. No. 8266/2010**

UNIVERSITY OF DELHI

..... Plaintiff

Through : Sh. V.P. Singh, Sr. Advocate with Sh. Mohinder Rupal,
Advocate.

versus

DELHI UNIVERSITY TEACHERS ASSOCIATION AND ANR Defendants

Through : Sh. V.K. Rao, Sr. Advocate with Sh. Rajeev Tiwari,
Advocate, for DUTA.
Sh. Rakesh Khanna, Sr. Advocate with Sh. Rajeev Saxena and Ms.
Seema Rao, Advocates, for DUSU.

CORAM:

MR. JUSTICE S. RAVINDRA BHAT

- | | | |
|----|--|------|
| 1. | Whether the Reporters of local papers
may be allowed to see the judgment? | Yes. |
| 2. | To be referred to Reporter or not? | Yes. |
| 3. | Whether the judgment should be
reported in the Digest? | Yes. |

MR. JUSTICE S. RAVINDRA BHAT, J. (OPEN COURT)

%

1. The Delhi University has approached this Court claiming a decree for permanent injunction against the defendants and their members, representatives etc., to restrain them from holding demonstrations, *dharnas*, agitations, or adopting any obstructive measures, directly or indirectly, which would prevent ingress and egress of the officers of the University. The plaintiff also seeks a mandatory injunction, directing the defendants to submit Internal Assessment Marks

of students of all colleges and Departments under the University in accordance with the existing norms and regulations.

2. The plaintiff University contends that pursuant to the recommendations of the University Grants Commission (UGC), it decided to introduce Semester System in the Undergraduate Science courses, commencing in 2010. It submits that this is part of its scheme to eventually introduce Semester Schemes in Undergraduate courses.

3. The suit mentions about an approval of the Academic Council of 02.05.2008, to the proposal for semester systems, in respect of the Post-Graduate course, for 2009-10 and also about a special meeting on 07.10.2008 of the Academic Council to consider introduction of the Semester System at the Undergraduate levels. The suit further mentions about the agenda having been placed before the Academic Council for the purpose, on 20.03.2009, but that no discussion on that subject could be taken-up. The plaintiff also mentions about the Executive Council Resolution dated 26.06.2009, approving the recommendation for introduction of the Semester System at the Undergraduate level.

4. The University submits that thereafter it took various steps to develop modalities for implementing its proposal. It refers to attempts by the defendants (who are a representative body of the University Teachers) allegedly on 14.03.2010, through e-mail exchanges proposing to resort to hunger-strike and other methods to protest against the move. On the strength of these pleadings, the plaintiff seeks the reliefs claimed.

5. On 20.05.2010, after hearing counsel for the defendants, this Court made the following order:

“XXXXXX

XXXXXX

XXXXXX

CS(OS) No. 509/2010 and I.A. No. 5725/2010 (u/O 39 R 1 and 2 r/w Sec. 151 CPC)

Learned Senior Counsel for the plaintiff, on instructions, state that without prejudice to the rights of the either side, Vice Chancellor of the plaintiff-University with his team, is ready to meet the defendants tomorrow i.e. on 21st May, 2010 at 5:00 PM in the Committee Room of Office of the Vice Chancellor, University of Delhi, to look into the issues raised.

Learned Senior Counsel for the defendants states that the career of the students would not be affected due to this impasse and the requisite appeal would be issued by tomorrow morning.

Let the needful be done.

Renotify on 20th August, 2010.

Copy of this Order be given dasti to Counsel representing both sides under the signature of the Court Master.

XXXXXX

XXXXXX

XXXXXX”

6. On 21.06.2010, upon an application, I.A. No. 8266/2010, the Court directed the defendants not to obstruct the admission process for the current year.
7. The application, I.A. No. 8266/2010 encloses an appeal issued by the defendant, Delhi University Teacher's Association (DUTA), requiring its members to desist from participating or involving in the admission process on account of what it terms as “undemocratic and arbitrary imposition of semester system and flagrant violation of different provisions of the Delhi University Acts, Regulations and Ordinances framed under it”. The Court did not deem it appropriate to vary the order of 25.05.2010 and, therefore, adjourned the matter.
8. On 15.07.2010, the parties represented that in order to seek an amicable resolution, the matter could be referred to mediation, which was accordingly done. The case was thereafter adjourned from time to time.
9. I.A. No. 8266/2010 seeks various interim reliefs, including a direction to the defendants not to indulge in any acts of obstruction, violence or threat and intimidation at the University

campus or any of its constituted colleges and also refrain from threatening the teachers who involve themselves in the admission process. The application further seeks a direction of mandatory order against the defendants to withdraw and recall their directions (to the teachers) contained in the appeal made to the teachers.

10. The defendants resisted the suit and contend that the introduction of the Semester System at the Undergraduate level is not only unjustified and sought to be done in haste, but is also illegal, as it is contrary to the existing Ordinances which, in respect of the relevant courses envisions annual examinations. It is submitted that till date, the approval of the Full Academic Council with the consequential steps to amend the Ordinances as required by Section 31 of the Delhi University Act, 1922 have not been taken. The defendants also contend that with little or no preparation, introduction of such new system in place of a tried and tested one, which has subsisted for over 80 years would be to the disadvantage and detriment of the students, particularly, new students who have been admitted to the colleges affiliated to the University. Learned senior counsel for DUTA contended in addition to the averments in the written statement and reply to the injunction application that the University (and the college teachers) are opposed to the Semester Scheme and are concerned that the same is being introduced without the appropriate legal sanction. It is also argued that lack of proper preparation in this regard would only spell disaster to the students and in order to highlight this issue, the impugned appeal was issued.

11. The Student's Union is represented today and for the past two hearings. Their senior counsel contended that the Semester System as is sought to be introduced cannot be permitted as its is plainly opposed to the existing Ordinances and that the only method by which the University can achieve that end is to amend the Ordinance and give sufficient time to the

teachers to prepare the syllabus and other course content.

12. The above narrative would disclose that the University's concern appears to be only to ensure that its decision to introduce the Semester System in the Undergraduate Science Course is as smooth as possible, and that the defendant (i.e. Delhi University Teacher's Association and its office-bearers) should not resort to violence, intimidatory methods as would obstruct its (the University's) plans. This Court, by its previous orders, appropriately enjoined the defendants from obstructing the admission process. On the basis of the defendants' statement that the Internal Assessment marks would be released so as not to cause any inconvenience to the students, the Court did not deem it appropriate to pass any directions in that regard but recorded a statement in this regard. It is not disputed that the Internal Assessment Marks have been released and made available to the University authorities.

13. The main reliefs in this case pertain to the University's apprehension that the defendants are likely to resort to violence or obstructive measures. The decree of permanent injunction sought is premised on the footing that such kinds of acts are likely to be perpetrated. This Court order put a quietus on the issue as the admission process in respect of the Undergraduate Science courses has been completed. The only apprehension of the University authorities is that while preparing the time table, the defendants are likely to obstruct such of the teachers who are voluntarily likely to associate themselves in its preparation.

14. In this Court's opinion, the question as to whether the University's policy of introducing Semester System in the Undergraduate Science stream is justified or wise cannot be gone into in these civil proceedings. That would be the appropriate subject matter of judicial review. Neither the teachers nor the students have indicated that such proceedings have been initiated. In the

circumstances, the correctness of the contentions of the defendants, i.e. that in the absence of appropriate Ordinance, the University authorities ought not introduce Semester System cannot be the subject matter of scrutiny in this suit. This is, however, not reflective of the merits of such contention but is only to indicate the scope of the present proceeding.

15. As far as the subject matter of this suit is concerned, the Court notices that with the passage of time, the previous orders have in a sense concluded substantial portions of the reliefs sought. All that can be done at this stage is to ensure that such of the teachers – be University or the college teachers – who wish to voluntarily engage themselves in the time-table setting-process ought not be obstructed by the defendants. Learned counsel for the defendants had urged that no teachers would be compelled or desisted from associating with the process, but that the appeal is only to persuade the teachers not to be part of the time-table making process. In this whole process, the interests of students are paramount. A large number of students have been admitted for this academic year, and their pressing need for education, cannot await the outcome of litigation.

16. In the circumstances, this Court directs the defendants not to hold-out any threats or in any manner prevent or obstruct the teachers who wish to voluntarily associate themselves in the Undergraduate Science courses in its various colleges. At the same time, it is clarified that this order shall not be construed as a mandate to the teachers to participate in the process; equally it is open to the authorities concerned to take such recourse as is available in law, to them.

17. In view of the preceding discussion, the Court is of the opinion that nothing further survives except to confirm the previous interim orders dated 20.05.2010 and 21.06.2010; in addition, an injunction in the terms indicated in the immediately preceding paragraph (No. 16) shall also issue against the defendants. It is also clarified that all rights of the parties are reserved

to initiate such proceedings as are available to them in law. The suit is decreed in the above terms.

Order dasti under signatures of Court Master.

S. RAVINDRA BHAT
(JUDGE)

AUGUST 09, 2010
‘ajk’