

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7255 OF 2016

MAULANA AZAD EDUCATION SOCIETY THROUGH ITS PRESIDENT
RAFIQ ZAKARIA CAMPUS AND ANOTHER
VERSUS
MIRZA MAHEFOOZ BAIG QAMER BAIG AND OTHERS

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Advocate for Petitioners : Shri Kakade Amol N.

AGP for Respondent 5 : Shri N.T.Bhagat.

Advocate for Respondent 1 : Shri M.C.Syed.

Advocate for Respondent 4 : Shri S.R.Kolhare.

Advocate for Respondent 2 : Mrs.Vinaya Mule - Dharurkar h/f Shri Ajay
Deshpande.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 19th July, 2016

Per Court:

1 The Petitioner/ Management is aggrieved by the common order dated 21.04.2016 passed by the College and University Tribunal, Aurangabad by which the applications seeking stay to the proceedings in Appeal Nos.BAMU-01, 02, 04 and 08 of 2014 have been rejected.

2 Shri Kakade, learned Advocate for the Petitioner, strenuously submits that all these original Appellants before the Tribunal have challenged their termination which is on the basis of the Shetkar Committee's Report which directs the University to cancel the approvals

granted to the appointments of the original four Appellants. Based on the said report, the Petitioner/ Management conducted an enquiry as against each of these Appellants and finally dismissed their services. The said dismissal is subject matter of the four appeals.

3 Shri Kakade further submits that three of the Appellants have preferred Writ Petition No.117/2016 before the learned Division Bench of this Court praying for several reliefs which are set out in the prayer clauses from paragraph 42-A till 42-E. The grievance of the Petitioner is, therefore, that considering the pendency of the Writ Petition before the learned Division Bench, the appeals preferred by the original Appellants need not be proceeded with considering the fact that the outcome of the said writ petition would affect the result of these four appeals pending before the Tribunal.

4 The learned Advocates appearing on behalf of the original Appellants submit that the prayers set out in Writ Petition No.117/2016 are totally distinct and have nothing to do with the prayers of the Appellants set out in their respective appeals. It is further submitted that if the prayers in the writ petition are perused, they would indicate that the original Appellants are seeking directions from the learned Division Bench with regard to initiation of action against some of the Respondents for

their malafide roles and for having acted with ulterior motives for extraneous considerations. It is also prayed that the responsible Respondents be punished for misleading the Enquiry Committee and being a cause of incorrect findings in the enquiry report.

5 The learned Advocates further submit that they have challenged departmental enquiries as well as the orders of punishments in the appeals and hence, notwithstanding the result of Writ Petition No.117/2016, the Tribunal can decide their appeals independently.

6 I have considered the submissions of the learned Advocates. With the assistance of the learned Advocates, I have gone through the memo of Writ Petition No.117/2016 which is pending before the learned Division Bench of this Court. I have considered the prayer clauses set out therein.

7 It is apparent from the memo of the said writ petition and the prayer clauses that the original Appellants have not questioned the departmental enquiry conducted by the Petitioner/ Management under the Universities Act, 1994 and the Rules. They have not assailed their orders of removal from service before the learned Division Bench. The issues of departmental enquiry as well as the orders of removal from

service are exclusively limited to the extent of the appeals and hence, the said cause of action would fall within the jurisdiction of the Tribunal. The Appellants have not called upon the learned Division Bench to deal with these issues.

8 In the light of the above, I do not find that the impugned order of the Tribunal dated 21.04.2016 could be termed as being perverse or erroneous. When the Appellants themselves have delinked their pending appeals with the pending writ petition and have stated that the Tribunal can independently deal with their appeals without awaiting the result of the writ petition, the impugned order, therefore, is not rendered unsustainable.

9 In the light of the above, this Writ Petition being devoid of merit is, therefore, dismissed.