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

+ W.P.(C) 7039/2018 & CM No.26710/2018, 20776/2019

PRATHAM SHARMA Petitioner
Through: Mr. Sahib Gurdeep Singh, Adv.

versus

THE WB NATIONAL UNIVERSITY OF
JURIDICAL SCIENCES AND ORS. Respondent
Through: Mr. C.K. Rai with Mr. Sumit, Advs. for
R-1.
Mr. Arunava Mukherjee, Adv. for R-2.

+ W.P.(C) 7972/2018 & CM No.30545/2018, 40744/2019

ANIMA SHUKLA Petitioner
Through: Mr. Sahib Gurdeep Singh, Adv.

versus

THE WB NATIONAL UNIVERISTY OF
JURIDICAL SCIENCES & ANR. Respondent
Through: Mr. C.K. Rai with Mr. Sumit, Advs. for
R-1.
Mr. Arunava Mukherjee, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **31.01.2020**

1. I have heard counsel for the parties at length.
2. During the course of the arguments, learned counsel for respondent No.1 *de hors* his objections as to the maintainability of the writ petitions, has fairly brought to my notice a resolution dated 29.6.2019, passed at the 67th Meeting of the respondent No.1's its Executive Council. The relevant part

of the resolution reads as follows:

<i>"Sl.</i>	<i>Agenda</i>	<i>Resolution</i>
<i>"10</i>	<i>Update on the litigations in the Calcutta and Delhi High Courts relating to distance/online education course previously run by WBNUJS in collaboration with private parties</i>	<i>WBNUJS is currently facing several litigations in the Calcutta and Delhi High Courts. Communication from the enlisted advocates were placed as Annexure and a report on the progress of the litigations was also placed as Annexure.</i> <i>The matter was submitted for information and further directions.</i> <u>Resolution</u> <i>The order dated 26/06/2019 of the Hon'ble High Court has been pleased before the Committee.</i> <i><u>In respect of the online courses of Diploma and Certificate courses regulated by the School of Distance & Mass Education, the University retains 30% of the admission fees whereas I-Pleader (private party) retains 70% thereof. It is resolved that the University would refund 30% of such admission fees to the respective students.</u></i> <i>In respect of the online courses of Masters in Business Law (MABL) the sharing is 60% for I-Pleader (private party) and 40% for the University. It is resolved that the University would refund 40% of the admission fees to the students.</i>

		<i>In respect of some students the University is holding 100% of the admission fees at present due to the dispute arisen. It is resolved that the University is ready to refund its share and await further direction from the Court of law in respect of the 60/70% as applicable towards the fees of I-Pleaders...”</i>
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(emphasis is mine)

3. I am also informed by the learned counsel for respondent No.2 that there is an arbitration proceeding pending with regard to fee claimed by respondent No.2 from respondent No.1.

3.1 Counsel for respondent No.1, however, says that presently, he has no instructions with regard to this aspect of the matter.

4. Having regard to the aforesaid, counsel for the petitioner says that the writ petitions can be disposed of in terms of the resolution passed by the Executive Council of respondent No.1, whereby, a decision has been taken to refund 30% of the fee to the students.

4.1 Furthermore, counsel for the petitioner says that insofar as the balance fee is concerned, respondent No.1 could consider refunding the same, if at all, it succeeds in its litigation with respondent No.2.

5. Counsel for the petitioners, thus, says that if directions are passed in terms of what is stated by him hereinabove, it would suffice, for the moment, insofar as the petitioners are concerned, although with a caveat that the petitioners' remedy, if any available, in law with regard to a suit action is not foreclosed.

6. Accordingly, the writ petitions are disposed of with the following

directions:

- (i) Respondent No.1 shall refund 30% of the fee received by it from the petitioners in terms of resolution dated 29.6.2019 passed by its Executive Council.
 - (ii) Insofar as the balance fee paid by the petitioners is concerned, respondent No.1 will take a decision to refund the same to the petitioners, if and when, it is received in the arbitration proceedings pending between itself and respondent No.2.
 - (iii) Respondent No.1 will, however, inform the petitioners as and when its litigation with respondent No.2 reaches culmination.
 - (iv) The directions passed hereinabove will not come in the way of the petitioners taking recourse to an appropriate suit action against respondent No.2.
 - (v) Needless to say, if recourse is taken by the petitioners to a suit action, it will be open for respondent No.2 to take up all defences that may be available to it in law.
7. The aforesaid directions are confined to the petitioners who have approached the Court.
8. Needless to add, as is evident, I have not expressed any opinion on the merits of the case.
9. Consequently, all the pending applications shall stand closed.

RAJIV SHAKDHER, J

JANUARY 31, 2020/pmc