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S.D.

**W.P.A. 10275 of 2022**  
**With**  
**CAN 1 of 2022**  
**CAN 2 of 2022**

**Avlon Shiksha Niketan & Ors.**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Sayan Chattopadhyay  
Mr. Rokon Ali  
Mr. Koustav Sen

...For the petitioners.

Mr. Swapan Kumar Dutta, Ld.A.G.P.  
Mr. Pradyot Kumar Das

...For the State.

Mr. Raghunath Chakraborty  
Ms. Amrita De

...For the Respondent Nos. 4 & 5.

Let a copy of the resolution taken by the Governing  
Body of Sarojini Naidu College for Women (respondent no.4)  
dated May 13, 2022, be kept with the records.

It appears that petitioner no. 1 and respondent no. 4  
entered into a memorandum of understanding dated  
February 6, 2019, whereby the petitioner no.1 was allowed to  
launch a BBA course in Tourism under the aegis of  
respondent no. 4. As per the said memorandum of  
understanding, respondent no. 4 will receive 15 per cent of

the revenue, for each and every student, and the same is required to be deposited to the College.

The memorandum of understanding, *inter alia*, provides for the admission fees, eligibility criteria, and other terms and conditions for running the said BBA course.

Clause 17 of the said agreement provides as follows:-

“17. That in view of the any anomalies (unfair means in candidature of exam etc.) in any of existing procedure, the Governing Body of First Party shall be at liberty to terminate/suspend/cancel/revoke this memorandum of understanding by one month prior notice to Second Party”.

By a letter dated May 15, 2022, the Managing Director of petitioner no.1 was intimated that the Governing Body of respondent no. 4 in its meeting dated May 13, 2022, had decided to terminate the said memorandum of understanding dated February 6, 2019, “due to unavoidable circumstances” with effect from July 1, 2022.

The petitioners have impugned the said letter dated May 15, 2022, in this writ petition.

The resolution of the Governing Body indicates that due to some allegations against the petitioners with regard to the running of the said Tourism course, the Governing body decided to terminate the agreement dated February 16, 2019.

The learned advocate for the petitioners submits that those allegations are not correct. When the petitioners asked for their legitimate dues from the college, the college authorities motivatedly decided to terminate the agreement.

It has been submitted by Mr. Dutta, learned advocate for the State that since this dispute is arising out of a contract, the writ petition is not maintainable. Mr. Dutta further submits that the dispute is private in nature and State has no role to play in such dispute.

I am of the view that there is no absolute bar to entertain a writ petition where the dispute is in the realm of a contract. In an appropriate case, a writ court may also entertain a writ petition involving disputed questions of fact.

The learned advocate for the petitioner has rightly placed reliance upon a judgment reported at **(2004) 3 SCC 553 (ABL International Ltd. vs. Export Credit Guarantee Corporation of India Ltd.)** in this regard. The relevant paragraph of the said judgment is quoted below:-

“27. From the above discussion of ours, the following legal principles emerge as to the maintainability of a writ petition:

(a) In an appropriate case, a writ petition as against a State or an instrumentality of a State arising out of a contractual obligation is maintainable.

(b) Merely because some disputed questions of fact arise for consideration, same cannot be a

ground to refuse to entertain a writ petition in all cases as a matter of rule.

(c) A writ petition involving a consequential relief of monetary claim is also maintainable.”

I also do not accept the contention of Mr. Dutta that the State has no role to play in the facts of the case.

The State has promulgated the West Bengal Universities and Colleges (Administration and Regulation) Act, 2017, with the following objectives:-

*“An Act to provide better administration and to improve the quality of education in the State-aided higher education institutions in West Bengal and for such other matters connected therewith and incidental thereto.*

WHEREAS, it is considered necessary and expedient to improve the functioning of the State-aided Universities and Government-aided colleges of West Bengal, and to bring about a certain uniformity and standardisation in the rules, practices and procedures of these educational institutions, and to ensure efficient and optimum utilisation of the resources at their disposal, and to clearly define the rights and duties of the various stakeholders as well as address their service and welfare-related issues, and to bring in greater responsibility, transparency and accountability among the managements and employees of the said Publicly-funded higher education institutions while respecting their need for institutional autonomy, and to effect a synergistic functioning among the State Government, the State-aided Universities and Government-aided colleges so as to achieve an efficient and vibrant higher education system, and for such other matters connected therewith and incidental thereto;”

The State in terms of Section 18 of the said Act has also authority “to give directions to any college or in any University in any matter not inconsistent with the provisions of this Act and the college or the University shall be duty bound to comply.” (emphasis supplied)

In the present case, having regard to the disputed question of facts involved in this case I am inclined to give a direction upon the State to issue appropriate direction in terms of Section 18 of the West Bengal Universities and Colleges (Administration and Regulation) Act, 2017.

In that view of the matter, I dispose of the writ petition giving a direction upon the Principal Secretary, Department of Higher Education to depute a competent officer to look into the grievance of the petitioner as made out in this writ petition. The said officer will pass the appropriate directions after hearing the College as well as the petitioners. Let such decision be taken within a period of four weeks from the date of communication of this order. Till such decision is taken by the said officer, the order of termination dated May 15, 2022, shall not be given any effect to.

Accordingly, W.P.A. 10275 of 2022 along with CAN 1 of 2022 and CAN 2 of 2022 is disposed of.

Parties shall act upon the server copy of this order downloaded from the official website of this Court.

**(Kausik Chanda, J.)**