

of Commission that respondent No.3 has filed the appeal and the same is pending with University Tribunal. It was incumbent upon the parties to bring to the notice of Commission the pendency of the statutory appeal filed by respondent No.3 before the University Tribunal.

4. The learned Counsel for respondent No.3 submits that the respondent No.3 is ready to proceed with the appeal filed before the University Tribunal and would not seek implementation of the order of Commission.

5. Be that as it may, when the statutory appeal is filed and pending with the University Tribunal, the same is required to be decided on its own merit. The Commission ought not to have decided the matter as the statutory appeal was pending when the decision was taken. The Commission is also justified in saying that none of the parties had brought to the notice of Commission the pendency of the statutory appeal.

6. In light of the above, we set aside the impugned order. Parties may proceed with the appeal filed before the University Tribunal on its own merits.

7. The writ petition is disposed of. No costs.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)

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