



Maharashtra Cosmopolitan
Education Society

**SURANA & SURANA INTERNATIONAL
MINORITY RIGHTS MOOT COURT COMPETITION**

A K K New Law Academy, Pune,
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**In the Supreme Court of India
Civil Appeal No. 666 of 2007**

SmaFel

Appellant

Vs.

Brotherhood University, TAN

Respondent

An overseas body belonging to Hardee community, which is a minority community in Inde, establishes Excel Institute of Technological & Professional Studies in the state of Shalimar where Hardee is a linguistic and religious majority community. This institution's syllabus is based on a reputed foreign university, Oxbridge. The faculty of Excel University are highly qualified and has international reputation. Many faculties of Oxbridge university also teach in Excel. Students who qualify from Excel are easily admitted into Oxbridge for postgraduate courses.

Excel establishes a branch institution in TAN state where Hardee is a linguistic and religious minority. Excel did not request for aid or recognition from the TAN. Excel's information brochure reads thus:

- Our staff, students and parents make up our learning community
- As a community we are proud and recognize it as a strength
- Appreciation and empathy of diversity starts with knowing ourselves, our institution and our country
- We strive to recognize all our actions and take responsibility for those actions
- Our community has an obligation to promote a challenging academic program that best meets the needs of all our learners and feeds their intellectual curiosity
- Learning is a perpetual process that takes place through different styles and interests. Flexibility and change are necessary elements of learning and progress
- We dedicate ourselves to ensure that we are responsible contributors in a globally competitive world

TAN has a reputed Brotherhood University of Technology under whose umbrella all Technical professional educational institutions function. Brotherhood University recognises the professional courses of its constituents based on guidelines issued by it. Brotherhood University admits students for postgraduate course only from recognised institutions and also from certain foreign universities whose syllabus and pattern of education recognised by it. It has also entered into MOUs with many foreign universities for student exchange programs (SEP). Brotherhood University's renowned PhD course is much sought for by students throughout the world.

The SEP involves exchange of students from these universities for part of their courses to be completed in the other universities, which award joint Postgraduate Degrees for their courses. To be qualified for SEP, a student must at the time of joining, opt for this mode and indicate in the application itself. This was done to avoid students to enter SEP midway during their course, as this also involves knowledge of the language of the country, which they chose for PG course. The applicants may indicate their preference of the place (university) for the first / second module which is allotted according to availability and demand. These PG courses are recognised throughout the

world and are held in high esteem among the academicians and in business circles that take these students after completion of course on attractive compensations.

One student SmaFel from Shalimar belonging to Hardee applied for a degree course in Shalimar and could not gain admission due to his average grades. He also applied for the same course in Excel in TAN. Due to his minority status he was admitted in spite of his average grades over other applicants belonging to different communities of TAN who had better grades.

After finishing his graduation in 2006 he applied for Oxbridge and got admitted in post graduation course with SEP in full fee scheme without scholarship, a very expensive proposition, due to his average grading. The high fee thus collected from such students is used by Oxbridge to subsidise higher studies of its native students. SmaFel opted for SEP with TAN's Brotherhood University with the idea of completing his PG course at Brotherhood. His aim was to gain admission to its PhD course that admits students only with PG degrees. A certain percentage of the PhD course, which has a fixed sanctioned intake, is reserved for the minority communities under National Reservation Policy. Brotherhood's PhD regulations clause (i) reads "if suitable candidate under National Reservation Policy is not eligible or has applied the seat may be allotted to the next eligible candidate in the waiting list."

SmaFel completed his PG course at Brotherhood under SEP in 2007. He applied for PhD course in Brotherhood under minority quota. UnLuFel also applied for the PhD Course in Brotherhood University. SmaFel got admission. UnLuFel had very good grades in his postgraduate course, which he finished from Brotherhood University. But he belongs to a community that is considered 'forward' by TAN State and that also means near impossibility to gain admission in any of the reputed professional courses or advanced studies according to prevailing TAN educational policy that prohibits admission tests. Though, UnLuFel was placed in waiting list 1; chances were very remote, because no body backs out from the reputed Brotherhood PhD course.

UnLuFel was very disappointed. But he found out that SmaFel did his graduation from Excel, which is not recognised by Brotherhood University, and they do not admit students even to their postgraduate course from Excel let alone PhD course. Then he found out that SmaFel had entered PG course of Brotherhood through SEP of Oxbridge.

He filed a writ petition under Art. 226 of the Constitution of Inde (similar to Constitution of India) in the High Court of TAN against Brotherhood University to set aside the admission of SmaFel in Brotherhood University on the following counts

1. Excel's Bachelors degree is not recognised by Brotherhood
2. Subsequently his completion of the post graduation course in Brotherhood was also improper as it is based on his Bachelor's degree
3. Based on this he is ineligible for admission in PhD course in Brotherhood University

The TAN High Court set aside admission of SmaFel and directed Brotherhood University to admit UnLuFel.

SmaFel appeals to Supreme Court of Inde.

Appellants and respondents may frame appropriate issues to sustain their arguments.