

Stereo. H C J D A-38.
JUDGMENT SHEET
IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT

Writ Petition No.1286 of 2016

Muhammad Uneeb Ahmed

Versus

**Federation of Pakistan through its Secretary, Ministry of
Science and Technology, Govt. of Pakistan, Islamabad & others**

J U D G M E N T

Date of hearing: 13.03.2019.

Petitioner by: M/s Aamir Majeed Rana, Khalid Masood Butt, Rafae Saigal, Qasim Tarar, Barrister Hamid Azeem Leghari and Suleman Jehangir, Advocates.

Respondents by: M/s Hina Hafeez Ullah, Assistant Attorney General, Ch. Ibrahim, Mian Jaffer Hussain, Mian Waseem, Barrister Lehrasib Hayat Dahar and Malik Abdul Munir, Advocates.

MUHAMMAD SAJID MEHMOOD SETHI, J.:- This consolidated judgment shall dispose of instant writ petition along with following connected writ petitions as common questions of law and facts are involved in these cases:-

- 1) **W.P. No.107733 of 2017** titled *Ghulam Mohay-ud-Din & others v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others*
- 2) **W.P. No.110719 of 2017** titled *Muhammad Shabbir & others v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others*
- 3) **W.P. No.121092 of 2017** titled *Usman Asghar & others v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others*
- 4) **W.P. No.125012 of 2017** titled *Shazib Ali & others v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others*

- 5) **W.P. No.128849 of 2018** titled Khuram Iqbal v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others
- 6) **W.P. No.162621 of 2018** titled Saad Shabbir v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others
- 7) **W.P. No.235391 of 2018** titled Muhammad Usman Shakeel v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others
- 8) **W.P. No.239844 of 2018** titled Hammad Ahmad v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others
- 9) **W.P. No.250683 of 2018** titled Muhammad Hasnain & another v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others
- 10) **W.P. No.252703 of 2018** titled Danish Mukhtar v. Higher Education Commission through its Chairman, Islamabad & others
- 11) **W.P. No.254273 of 2018** titled Muhammad Usman Shakeel v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others
- 12) **W.P. No.8786 of 2019** titled Shafat Haider v. Federation of Pakistan through its Secretary, Ministry of Science and Technology of Pakistan, Islamabad & others

2. Through instant petition, petitioner has assailed the reservation of maximum 2% seats of the total enrollment in the relevant engineering program offered by the universities / institutes to the candidates holding Diploma of Associate Engineer (“DAE”), for admission in B.Sc. Engineering, and sought direction from this Court for respondent No.3 / Pakistan Engineering Council (“PEC”) to consider and grant admission to petitioner on open merit, with the following prayer:-

“Wherefore, it is most respectfully prayed that this petition be allowed and the fixation of 2% reserved seats (quota) for the Diploma holders of Associate Engineer by the respondent No.3 / Pakistan Engineering Council for admission in B.Sc. Engineering may very kindly be declared to be illegal and without lawful authority.

It is further prayed that the respondent No.3 / Pakistan Engineering Council may very graciously be ordered to consider and grant admission to the petitioner on merits in

B.Sc. Engineering as is given to other equivalent certificate holders.”

3. Brief facts of the case are that, after matriculation, petitioner successfully completed three years DAE from the Punjab Board of Technical Education, Lahore in the year 2015 and obtained 81.28% marks. Since DAE is considered equivalent to F.Sc. (Pre-Engineering) / Higher Secondary School Certificate (Pre-Engineering), therefore, petitioner applied for admission in B.Sc. Engineering and appeared in pre-admission test of the Chenab College of Engineering and Technology, Gujranwala. Petitioner was refused admission due to the reason that according to PEC, he did not qualify on merit because petitioner's case was considered against 2% seats reserved for DAEs as per letter dated 25.03.2015, issued by respondent No.3 / PEC. Hence, instant petition.

4. Learned counsel for petitioner submit that respondent No.3 / PEC has no authority under the Pakistan Engineering Council Act, 1976 (“**the Act of 1976**”) to reserve maximum seats for any class, therefore, impugned fixation of maximum 2% seats for the diploma holders of Associate Engineer vide letter dated 25.03.2015, by respondent No.3 / PEC, is absolutely illegal and without any lawful authority / justification. They add that respondent No.4 / Punjab Board of Technical Education, vide certificate / letter dated 09.08.2003, has already recognized DAE equivalent to Intermediate Examination and such candidate is eligible to apply for admission in B.Sc., therefore, impugned decision, being discriminatory, is violative of the equality clause contained in Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973 (“**the Constitution**”) as the regulations framed by respondent No.3 / PEC themselves are not in accord with the mandate of Section 25(A) of the Act of 1976. In the end, they submit that the impugned fixation of maximum seats for DAEs is not sustainable in the eye of law. In support of their submissions, they have referred to Shrin Munir and others v. Government of Punjab through Secretary Health, Lahore and another (PLD 1990 Supreme Court

295), Khawaja Ahmad Hassaan v. Government of Punjab and others (PLD 2004 Supreme Court 694), Arif-ur-Rehman v. Government of N.-W.F.P. through Secretary Education, N.-W.F.P. and others (2005 SCMR 340), Miss Shazia Batoool v. Government of Balochistan and others (2007 SCMR 410), Suo Motu Case No.13 of 2009 (PLD 2011 Supreme Court 619), Suo Motu Case No.11 of 2011 (PLD 2014 Supreme Court 389), Abdul Farid v. N.E.D. University of Engineering and Technology, Karachi and another (2001 CLC 347), United Bank Limited v. Messrs Azmat Textile Mills Limited (2002 CLD 542), Malik Naz v. University of Peshawar through Registrar, Peshawar and 3 others [2003 PLC (C.S.) 180], Muhammad Younus Shaikh v. Federation of Pakistan through Secretary Revenue Division, Central Board of Revenue, Islamabad and 3 others (2006 PTD 1036), Dr. Abdul Rasheed and another v. Government of Balochistan, Health Department through Secretary and 51 others (PLD 2014 Balochistan 186), Muhammad Ikram v. Principal and Chairman Admission Committee, Sukkur and 2 others (2014 MLD 1), Miss Asma Javaid and another v. Government of Punjab through Secretary, Health Department and 2 others (2015 CLC 907), Government of the Punjab, Secretary Home Department through Deputy Secretary (Police) Interior Department and others v. Qanoot Fatima and others [2018 PLC (C.S.) Lahore 22], P. Lakshmipathi v. College of Engineering [1982 AIR (A.P.) 424 = 1982 (2) An. WR 276 = 1982 (2) APLJ 37] and Miss Neelam Sharma v. Rajasthan Public Service Commission, (Rajasthan) [2005(4) S.C.T. 304 = 2005 LIC 2736 = 2006(2) SLR 166 = 2005(4) RLW 2736 = 2005(3) Rajasthan LR 203 = 2005(3) W.L.C. 679 = 2005(2) DNJ 910].

5. On the other hand, learned Law Officer, duly assisted by learned Legal Advisors for respondents, have opposed the submissions made by learned counsel for petitioner. They submit that equivalence of DAE with F.Sc. means equal in status and not qualification. They add that DAE and F.Sc. (Pre-Engineering) with Physics, Chemistry and Mathematics are not equal, thus, petitioner could not be considered on

open merit. They further submit that main stream of DAE holders is B.Tech / B.Tech (Hons) i.e. Technology and not Engineering, however, opportunity has been provided to DAE holders to join Engineering by reserving 2% seats.

6. Arguments heard. Available record perused.

7. The issue involved in this case is whether candidates holding DAE are equally entitled to be considered for admission in B.Sc. Engineering on open merit like candidates who have passed F.Sc. (Pre-Engineering), and fixation of maximum 2% seats for the diploma holders of Associate Engineer is justified. The petitioner has questioned the aforesaid quota on the grounds that same restricts the right of diploma holders to compete on open merit for admission in B.Sc. Engineering, which right is not only guaranteed by the Fundamental Rights and Principles of Policy enshrined in the Constitution but also in terms of the dictum of law laid down by the Hon'ble Supreme Court of Pakistan and other superior Courts of the country in various pronouncements.

8. For better understanding the controversy in hand, the impugned decision / order / letter dated 25.03.2015, issued by respondent No.3 / PEC, is reproduced hereunder:-

"To:

(Heads/VCs/Rectors of all HEIs in Pakistan)

Subject: **RESERVED SEATS OF D.A.E. QUALIFICATION FOR ADMISSION IN AN ENGINEERING PROGRAM.**

Dear Sir,

The subject reserved seats of 2% for admission of DAE qualification in relevant engineering program was approved in 30th Vice Chancellors Committee and in subsequent 15th Governing Body meeting of this Council, which is reproduced for ready reference:-

"The maximum reserved seats for relevant DAEs admission to an engineering program shall be upto 2% of the total enrollment in the program for the universities / HEIs offering admissions to DAE students against reserved seats."

2. Submitted for your kind information and implementation w.e.f. onward admissions by Fall-2015, please.

This is issued with the consent of the Competent Authority of this Council.

Engr. Muhammad Sohail
Deputy Registrar (Accr.)”

9. The above decision has been taken by the Governing Body of the PEC. The purpose of constitution of the Governing Body is reflected in Section 9(1) of the Act of 1976, which is reproduced below:-

“**9. Governing Body.-** (1) There shall be a Governing Body which shall be the principal executive authority of the Council for supervising and governing the affairs and functions assigned to the Council by or under this Act and bye-laws.”

10. Section 25A of the Act of 1976, provides power to the Governing Body to make regulations and its Clause (c), reproduced below, is relevant to the issue in hand:-

“**25A. Power of make regulations.-** (1) The Governing Body may, in consultation with the committee of Vice-Chancellors of the Universities of Engineering and Technology of Pakistan set up by the Higher Education Commission, make regulations, not inconsistent with the provisions of this Act and the bye-laws, to provide for-

(a)....
(b)....
(c) minimum qualifications for admission to engineering institutions offering course of study and laying down minimum standard for holding admission examinations;”

11. Purportedly, under the Authority of above provisions of the Act of 1976, PEC has framed Regulations for Engineering Education in Pakistan and Article 2 of the said Regulations provides as under:-

“Article 2.

MINIMUM QUALIFICATION FOR ADMISSION TO
ENGINEERING BACHELOR’S DEGREE PROGRAMMES
OFFERED BY ENGINEERING INSTITUTIONS AND
UNIVERSITIES

A candidate seeking admission in an Engineering Institution/University for working towards Bachelor’s Degree

in any recognized branch of Engineering must fulfill the following minimum requirements:-

(a) (i) He or she has passed the Higher Secondary School Certificate (HSC/HSSC) Pre-Engineering Examination with Physics, Chemistry and Mathematics, securing at least 60% marks in aggregate of a University, a Board of Intermediate or Board of Intermediate and Secondary Education in Pakistan. In addition, a combination of Physics, Mathematics and Computer Studies/Computer Science may be allowed for admissions in all Computer related Engineering Programmes, Electronics, Telecommunications and Avionics Engineering Programmes:

Provided that any candidate who has been admitted in an Engineering Institution or University for working towards Bachelor's degree in any recognized branch of engineering before the 6th June, 2003, and does not fulfill the above specified minimum requirements for such admission, shall be considered for registration by the Pakistan Engineering Council:

Provided that any institution or college or university may provisionally admit a student with less than 60% marks but not below 50% marks in aggregate. However, in such case the institution or college or university shall arrange for the student a zero semester of three to six months duration or arrange a qualifier examination in pre-engineering core subjects in which the provisionally admitted student shall be required to secure at least 60% marks in aggregate to confirm his permanent admission.

OR

(ii) He or she has passed any other examination of a Foreign University/Institution/ Examination Body, with both standard as well as scope wise is equivalent to the Higher Secondary School Certificate (Pre-Engineering) of a University or a Board of Intermediate/Intermediate and Secondary Education in Pakistan. Equivalence of the Examination passed by the candidate shall be determined by the concerned University.

(b) He or she has passed an entrance test conducted by the respective Institution or University.

(c) A candidate who has passed Diploma of Associate Engineer Examination, securing at least 60% aggregate marks, shall be eligible for admission against reserved seats in the relevant discipline of Engineering in which he or she has passed the Diploma examination; and

(d) A candidate seeking admission should possess adequate mental and physical health to be able to obtain engineering education as prescribed and necessary steps should be

taken by University/ Institution to ensure this provision on admission of students”

Taking guidance from Clause (c) of the above Regulation, impugned decision of reserving maximum 2% seats for DAEs has been taken for their admission in B.Sc. Engineering.

12. It reflects from Section 25A of the Act of 1976 that methodology and guidelines for making regulations have been provided and discretion vested in Governing Body has been structured. Said provision does not show that the Governing Body was authorized to restrict the number of seats of diploma holders of Associate Engineering for the purpose of admission in relevant engineering programs offered by the universities / institutes on open merit. The power of Governing Body has been regulated through a statutory provision leaving no scope of unfettered and arbitrary powers to make Regulations.

13. It is settled that power is controlled and regulated by the parent statute and rule-making authority cannot enhance it. It has to remain within the scope of delegated legislative power given by the parent statute. In the instant case, impugned decision is not at the same pedestal as its parent statute. The efficacy of provisions of a statute cannot be left to the kind mercy of rule-making power of the Governing Body of PEC, which, even otherwise, does not provide complete, absolute, unclear, unguided and uncontrolled rule-making power. It is equally well-settled that rules / regulations can neither go beyond the scope of the parent statute nor can they, by themselves, enlarge the scope of statutory provisions. They cannot also militate against the provisions under which they were made. Rule-making power is an incidental power that must follow and not run parallel to the parent statute. The only requirement of law in such situations is to insist that the subordinate body charged with the duty of making rules / regulations must strictly confine itself within the sphere of its authority for the exercise of its subordinate legislative power and in each case, it is the duty of the Courts in appropriate proceedings to be satisfied that

the rules / regulations so made are: (a) by the authority mentioned in the Act and (b) within the scope of the power delegated therein.

14. A rule-making body cannot frame rules / regulations in conflict with the substantive provisions of the law or statute under which the rules / regulations are framed. The Courts of law, as a general rule, do not give effect to the rules / regulations, etc. thus made, unless satisfied that all the conditions precedent to the validity of the rules / regulations are fulfilled. Reference can be made to Suo Motu Case No.13 of 2009 (PLD 2011 Supreme Court 619), Suo Motu Case No.11 of 2011 supra, Khawaja Ahmad Hassan, supra and Independent Newspapers Corporation (Pvt) Ltd and others v. Federation of Pakistan and others (PLD 2017 Lahore 289).

In the case of Malik Naz supra, the Hon'ble Division Bench of Peshawar High Court has observed as under:-

"9. ... It is well established proposition of law that by way of delegation of legislation, the provisions of the Principal legislation cannot be rendered ineffective. Similarly, delegated legislation must not be in conflict with the main Act. ..."

15. The learned Division Bench of Sindh High Court, in the case of Abdul Farid supra, has observed as under:-

"12. Mr. Shamsuddin Khalid on the other hand placed reliance on Article 37(c) of the Constitution which stipulates that the State shall make technical and professional education generally available and higher education accessible to all on the basis of merit. Though the provisions of this Article which appears in the Chapter on Principles of Policy is not directly enforceable by Courts, its important in two dimensions can hardly be under-scored. In the epoch-making case of Benazir Bhutto v. Federation of Pakistan PLD 1988 SC 416 their Lordships described these principles of policy as "the conscience of the Constitution and the basis of all executive and legislative action" and in Employees of Pakistan Law Commission v. Ministry of Works 1994 SCMR 1548 it was held that the provisions relating to fundamental rights ought to be read together with the directive principles of policy. It would, therefore, follow that Article 25 has to be read with Article 37(c) which would imply that any classification made for the purpose of admission into institutions of higher learning on a basis other than merit would be invidious and violative of Article 25. From the above stand-point, the classification in question cannot be sustained.

13. Secondly, when Article 29(1) confers a responsibility upon every organ of the State to act in accordance with such principles, it must be assumed that any law conferring authority upon a State functionary, subject to a specific provision to the contrary, implies that such authority would be exercised for the purpose of implementing those principles. No provision of the N.E.D. University of Engineering and Technology Act has been shown which could enable the University Authorities to accord admissions or lay down a criterion based on something other than merit for the purpose of admissions. It must, therefore, be assumed that the power available was only exercisable according to such principles and laying down the policy violating the same would be ultra vires the powers available.”

16. Argument of PEC / Respondent No. 3 that equivalence of DAE with F.Sc. means equal in status and not qualification, is not of much force as, in rebuttal, the learned counsel for the Punjab Board of Technical Education / Respondent No. 4 has placed on record a copy of booklet i.e. Inter Board Committee Chairmen, Book of Equivalence of Educational Qualifications in Pakistan, whereby the Diploma of Associate Engineering has been declared equivalent to HSSC (Pre-Engineering) by the Inter Board Committee of Chairmen, Ministry of Education, Govt. of Pakistan at Serial No. 30. Relevant portion of the booklet is reproduced below:-

“3. At this stage, Deputy Controller Punjab Board of Technical Education, Lahore, namely Muhammad Elahi submitted an attested copy of a booklet i.e. *Inter Board Committee Chairmen, Book of Equivalence of Educational Qualifications in Pakistan*, whereby the Diploma of Associate Engineering has been declared equivalent to the F.A. / F.Sc. by the Inter Board Committee of Chairmen, Ministry of Education, Govt. of Pakistan Islamabad.

The relevant content of the aforesaid booklet is reproduced as under:-

IBCC
BOOK OF EQUIVALENCES OF EDUCATIONAL
QUALIFICATIONS IN PAKISTAN,
published by INTER BOARD COMMITTEE OF
 CHAIRMEN MINISTRY OF EDUCATION GOVERNMENT
 OF PAKISTAN, ISLAMABAD 1997:

Sr. No.	Nomenclature	Institution/ Authority	Corresponding Equivalent in Pakistan
1.
2.
3.
..
..

..
30.	Diploma of Associate Engineer	Board of Technical Education Pakistan	HSSC (Pre-Engineering)

At Serial No.30 of the aforesaid book, it has been declared that Diploma of Associate Engineering is equivalent to H.S.S.C (Pre-Engineering).”

Learned counsel for Respondent No. 4 has also placed reliance on order dated 05.03.2015, passed by this Court in **W.P. No.2500 of 2015** titled Samee Ullah etc. v. Govt. of Punjab, etc., wherein the equivalence of DAE with F.Sc. has been discussed as under:

“6. It is not denied, that the qualification mentioned in the advertisement is to be considered at the time of making the appointment. In this case, the respondent department is requiring the candidates having the certificate of F.A / F.Sc., whereas the petitioners are diploma holders of Associate Engineering but at the same time, the Board of Technical Education and The Highest Body namely Inter Board Committee Chairmen, Ministry of Education, Govt. of Pakistan Islamabad, had declared that the qualification of diploma of Associate Engineer is equivalent to F.A. / F.Sc. The respondent department till today has not challenged the validity of the afore-referred notifications, therefore, it can safely be held, that the academic qualifications of the petitioners is equivalent to the F.A. / F.Sc., which is the required qualification for the appointment of Elementary School Educator (Sci-Math), therefore, in these circumstances, the act of the respondents whereby the names of the petitioners were dropped and the respondent department refused to appoint the petitioner as Elementary School Educators (Sci-Math), is illegal.”

Petitioner has also placed on record copy of certificate / letter dated 09.08.2003, issued by respondent No.4 / Punjab Board of Technical Education, whereby it has been certified that Diploma of Associate Engineer of Punjab Board of Technical Education, Lahore, in twenty-seven technologies mentioned therein, is equivalent to the Intermediate Examination (F.Sc.) of the Boards of Intermediate and Secondary Education. The aforesaid certificate is reproduced hereunder:-

CERTIFICATE

Reference the letter # (EE) 5-33/73 dated 4-10-1976, subject noted that **“RECOGNITION OF DIPLOMA OF**

ASSOCIATE ENGINEER FROM BOARD OF TECHNICAL EDUCATION EQUIVALENT TO INTERMEDIATE EXAMINATION” & reference with the letter # PBTE/Acd/76-3578-3594 dated 11-8-1976 subject noted that ELIGIBILITY OF ASSOCIATE ENGINEER TO APPEAR IN BA/B.SC. EXAMINATIONS.

Certified that Diploma of Associate Engineer (DAE) of Punjab Board of Technical Education, Lahore in following Technologies are equivalent to the Intermediate examination (F.Sc.) of the Boards of Intermediate and Secondary Education functioning within the territorial jurisdiction of the University.

NAME OF TECHNOLOGIES	DURATION
1. Civil	Three Years
2. Electrical	Three Years
3. Mechanical	Three Years
4. Electronics	Three Years
5. Computer	Three Years
6. Architecture	Three Years
7. Ref. & Air Conditioning	Three Years
8. Instrument	Three Years
9. Food	Three Years
10. Auto & Farm Machinery	Three Years
11. Auto & Diesel	Three Years
12. Textile Spinning	Three Years
13. Textile Weaving	Three Years
14. Chemical	Three Years
15. Metallurgy & Welding	Three Years
16. Foundry & Pattern Making	Three Years
17. Leather	Three Years
18. Petroleum	Three Years
19. Petro Chemical	Three Years
20. Chemical Processing	Three Years
21. Mine Electrical	Three Years
22. Mine Mechanical	Three Years
23. Construction Machinery	Three Years
24. Printing & Graphics Arts	Three Years
25. Automation	Three Years
26. Computer Information	Three Years
27. Textile Dying & Printing	Three Years

17. The quota acted as a bar for candidates having DAE to get admission for future studies in a relevant discipline and thus lost its facilitative objective. By reducing the number of seats for candidates having qualified DAE to maximum 2%, the merit is compromised as candidates who satisfy the merit are ousted and candidates who do not meet the merit are included.

18. Even otherwise, under the law, any discrimination while dealing with the citizens shall offend Article 25 of the Constitution, whereas, the impugned fixation of maximum 2% seats for DAEs is highly discriminatory in nature while jeopardizing the rights of the petitioner. As a whole, the principle on which the doctrine of equality is founded, is that persons in similar circumstances must be governed by the same laws and assumption that circumstances are similar for the whole society holds good only in case of laws which operate equally on all persons in the realm and such laws are founded by experience to be wholly inadequate to cover all activity of the society. It has always been the practice to supplement the body of general laws with special laws i.e. the laws which apply to persons engaged in particular activities, and since the effect of these special laws is to ‘classify persons’ and things into different groups, the process by which such legislation is governed is called ‘classification’. The process does not offend against the equal protection principle if the special law operates equally on all members of same class or group.

19. Due process under Article 4 and the right against discrimination under Article 25 of the Constitution collectively provide the requisite constitutional underpinning to maintain level playing field, in all public sectors, at all times. Reliance is placed on Barrister Sardar Muhammad v. Federation Of Pakistan and others (PLD 2013 Lahore 343). To determine the constitutionality of a law, when challenged as discriminatory and offending against the guarantee in Article 25 of the Constitution, it is the first duty of the Court to examine the purpose and policy of the statute and then to find out whether the classification made by the law has reasonable relation to the object which the legislature seeks to achieve. This Court has the duty to ensure that governmental institutions abide by the constitutional constraints on their power.

20. Undoubtedly, concept of reasonable classification has been held to be implicit in Article 25 of the Constitution, which guarantees equality of citizens and equal protection of law as has been clearly

explained by the Hon'ble Supreme Court in I.A. Sharwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041). Nevertheless, it is equally well-settled that the classification must be reasonable and must have nexus with the objects sought to be achieved by such classification. What needs to be seen is whether the classification impugned before this Court could be termed reasonable or not. Article 25 apart from stipulating equality and equal protection of law to all citizens, expressly prohibits discrimination and provides that the State may make special provisions for protection of women and children. A 'valid classification test' of any enactment would be that the regulation/rule must not be arbitrary in nature. It must be founded on intelligible differentia which distinguish persons or things that are grouped together from others not falling in that group but such differentia must have a rational relation to the object sought to be achieved by the enactment in question. The rule is well settled that a State may classify persons for purpose of legislation and pass laws applicable only to persons and objects within designated class according to the public object, it has in view. What is prohibited is class legislation against some and favouring others, which has happened in the instant case where the State is favouring one class at the cost of elimination of the other. The object of classification should be lawful and it should be made in good faith. But in the instant case, the classification provided between two classes of students would not pass the classification test mentioned above, therefore, the said fixation of maximum 2% seats for the candidates who have passed examination of Diploma of Associate Engineer is liable to be declared *ultra vires* the Constitution.

21. In view of the above discussion, instant petition, along with connected petitions is allowed and impugned decision / order / letter dated 25.03.2015 issued by the Governing Body of PEC / respondent No. 3 as well as the fixation of reserved seats for DAEs is declared illegal and without lawful authority. However, the students already

admitted in pursuance of the impugned decision as well as Regulations shall not be disturbed.

(Muhammad Sajid Mehmood Sethi)
Judge

Approved for reporting.

Judge

A.H.S.