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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

DISTRICT: GANDHINAGAR

SPECIAL CIVIL APPLICATION NO. 20327 **OF 2015**

Jaymin R. Brahmbhatt ...Petitioner

Versus

Gujarat National Law University & Ors. ...Respondents

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Place : Ahmedabad

Date : 10.12.2015

Gursharan H. Virk

Advocate for the Petitioner

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DISTRICT: GANDHINAGAR

SPECIAL CIVIL APPLICATION NO. **OF 2015**

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Gujarat National Law University & Ors. ...Respondents

SYNOPSIS

By way of the present writ petition, under Article 226 of the Constitution of India, the Petitioner challenges the legality and validity of the pre-determined, non-speaking decision(s)/action(s) of the Respondents, more particularly the Respondent Nos. 3 and 4 on instruction of Respondent No. 2, in cancelling the examination taken by the Petitioner for the Subject: Quantitative Techniques, *vide* a communication dated 03.12.2015, for reasons not known to the Petitioner and for reasons not evident on record and : -

i. without giving the Petitioner an opportunity of being heard,

ii. without following the principles of natural justice,

iii. without following the Gujarat National Law University (Academic, Examination, Moots, Internship, Hostel and Related Matters) Regulations, 2015 framed by the Respondent No.1 university itself,

iv. without permitting the Petitioner to confront his accuser(s)/complainant(s),

v. without permitting the Petitioner to be represented by counsel,

vi. without providing the Petitioner with copies of documents/records or reports of the complainant(s),

vii. without providing the Petitioner with a copy of his own statement, and

viii. without any evidence whatsoever.

LIST OF DATES AND EVENTS

02.11.2015 Around 01.00 pm	The Petitioner arrived at the Academic Block of GNLU to take the Quantitative Techniques Examination, which was to take place from 01.30 pm to 04.30 pm.
02.11.2015 Around 02.25 pm	Approximately 5 minutes prior to the completion of the examination, the Respondent No. 5 (invigilator for the exam) suddenly bolted from across the Examination Hall and snatched the answer sheet of the Petitioner. Thereafter, the Respondent No. 5 started making crass allegations against the Petitioner. The exact language of the Respondent No. 5 was "...you are hiding something in your underwear...". The Respondent No. 5 advanced towards the Petitioner and stated that she would be physically frisking the Petitioner. The Petitioner objected to the said proposition of the Respondent No. 5 and out-rightly refused to permit the Respondent No. 5, who was a member of the opposite gender, to frisk the Petitioner and that before his peers, for obvious reasons and in the interest of modesty and propriety.

	Thereafter, the Respondent No. 6 arrived to frisk the Petitioner.
07.11.2015 12.28 pm	The Petitioner received an e-mail (at Annexure-B) from <examination@gnlu.ac.in> stating that the petitioner was required to remain present before one – "exam inquiry committee" at 2.30 pm, i.e. at a short notice of 2 hours, on that day itself.
07.11.2015 02.20 pm to 04.45 pm	The Petitioner appeared before the Examination Inquiry Committee but the Committee members conducted a one sided inquiry : - i. without giving the Petition an opportunity of being heard, ii. without following the principles of natural justice, iii. without following the Gujarat National Law University (Academic, Examination, Moots, Internship, Hostel and Related Matters) Regulations, 2015 framed by the Respondent No.1 university itself, iv. without permitting the Petitioner to confront his accuser(s)/complainant(s), v. without permitting the Petitioner to be represented by counsel, vi. without providing the Petitioner with copies of documents/records or reports of the

	complainant(s), vii. without providing the Petitioner with a copy of his own statement, and viii. without any evidence whatsoever.
07.11.2015 05.51 pm	Having witness utter unfairness and injustice at the hands of the Respondents, the Petitioner, so as to set the record straight, immediately - upon leaving the university at around 04.45 pm, addressed an e-mail at 05.51 pm (at Annexure-C) to the Director as also the university through the nodal Examination Committee, placing on record the events that had transpired since 02.20 pm on that day. As on date of filing of the captioned Petition, the Respondents have not replied to the said e-mail of the Petitioner.
03.12.2015 05.07 pm	Approximately 1 month since the Petitioner had been humiliated by the Respondent Nos. 3 and 4, the Petitioner received a brief, non-speaking e-mail at 05.07 pm (at Annexure-D), summarily stating that the Examination Inquiry Committee had given a recommendation which had been approved by the Director, and that the Petitioner's QT exam stood cancelled.

	The e-mail did not contain any reasons for arriving at the adverse decision, nor did the Respondents deal with the contentions of the Petitioner's statement or his e-mail dated 07.11.2015 (at Annexure-C).
	Hence, the present Petition.

NOTARY
HARSH M. DAVE
AHMEDABAD CITY
GOVT. OF GUJARAT (INDIA)
GUJARAT STATE
REGN. NO. 1310
EXPIRY DATE
05/02/2020

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

DISTRICT: GANDHINAGAR

SPECIAL CIVIL APPLICATION NO. 20327 **OF 2015**

In the matter of Article 226 of the Constitution of India;

And

In the matter of Article 14 of the Constitution of India;

And

In the matter of predetermined, nonspeaking Order of Cancellation, dated 03.12.2015, for the examination of Quantitative Techniques, issued by the Director of Gujarat National Law University without giving the Petitioner an opportunity of being heard;

And

In the matter between:

Jaymin R. Brahmbhatt,
Student, Adult,
Residing at:
Plot No. 488/1, Sector 1,
Gandhinagar – 382 007
Gujarat

...Petitioner

VERSUS

1. Gujarat National Law University, Attalika Avenue, Knowledge Corridor, Koba, Gandhinagar - 382 007, Gujarat

2. Mr. Bimal N. Patel, Director, Gujarat National Law University, having his office at: Attalika Avenue, Knowledge Corridor, Koba, Gandhinagar - 382 007, Gujarat

3. Ms. Pratima Dube, Assistant Professor and member of 'Examination Inquiry Committee', having office at: Attalika Avenue, Knowledge Corridor, Koba, Gandhinagar - 382 007, Gujarat

4. Ms. Shobhalata Udapudi, Professor and member of 'Examination Inquiry Committee' having her office at: Attalika Avenue, Knowledge Corridor, Koba, Gandhinagar - 382 007, Gujarat

5. Ms. Richa Sharma, Assistant Professor, having her office at: Attalika Avenue, Knowledge Corridor, Koba, Gandhinagar - 382 007, Gujarat

6. Mr. Avinash Bhagi,
   Assistant Professor, having office at: Attalika Avenue, Knowledge Corridor, Koba, Gandhinagar - 382 007, Gujarat ...Respondents

To,
The Honourable Chief Justice and the Honourable Judges of the High Court of Gujarat at Ahmedabad

The humble petition of the Petitioner above named.

MOST RESPECTFULLY SHEWETH:

1. By way of the present writ petition, under Article 226 of the Constitution of India, the Petitioner challenges the legality and validity of the predetermined, non-speaking decision(s)/action(s) of the Respondents, more particularly the Respondent Nos. 3 and 4 on instruction of Respondent No. 2, in cancelling the examination taken by the Petitioner on 02.11.2015, for the Subject: Quantitative Techniques (hereinafter referred to as "**QT**") for reasons not known to the Petitioner and for reasons not evident on record; and more particularly without giving the Petitioner an opportunity of being heard, and further, without following

the principles of natural justice as also the regulations framed by the Respondent No.1 university itself.

2. The Petitioner, age: 20, is a student pursuing the degree of B.B.A. LL.B. (Hons.) in the Respondent No. 1 university, and is presently in the third academic year of the five year integrated course.

3. The Respondent No. 1 is the Gujarat National Law University (hereinafter referred to as "**GNLU**" or "**university**") established under the provisions of the Gujarat National Law University Act, 2003, and is accredited with the Bar Council of India and the University Grants Commission. The Respondent No. 1 university is 'State' within the meaning of Article 12 of the Constitution of India. The Respondent No. 2 – Mr. Bimal N. Patel (hereinafter referred to as the "**Director**"), is the Director and Vice Chancellor of the Respondent No. 1, and is the authority under whose signature and direction, the impugned non-speaking illegal communication dated 03.12.2015 for Cancellation of QT Examination has been issued. The Respondent Nos. 3 and 4 are the faculty members of GNLU, who together comprise

the 'Examination Inquiry Committee' constituted on the directive and instruction of the Respondent No. 2, and who purportedly made the impugned recommendation that has been accepted by the Director. The Respondent Nos. 2, 3 and 4 are acting for and on behalf of the Respondent No. 1 State, for any and all purposes, in relation to the captioned petition. The Respondent Nos. 5 and 6 are faculty members of GNLU who, for reasons not known to the Petitioner, and without any evidence or proof, apprehended the Petitioner during the QT Examination on 02.11.2015, and harassed and humiliated the Petitioner before his peers as also before the Director of GNLU, and made wrongful allegations against the Petitioner in furtherance of their purported personal vengeful agenda. The Respondent Nos. 5 and 6 are, therefore, jointly or severally, complainants in the facts of the present case to the best of the knowledge of the Petitioner. As the Petitioner has not been provided with any documents/records or report by the Respondents, the Petitioner has no material to plead and affirm on oath before this Hon'ble Court, in relation to the true involvement of each of the aforesaid private Respondents.

4. Conspectus of the facts and circumstances necessitating the filing of the present Petition are as under:

4.1. At the very outset, the Petitioner respectfully submits that the process of examination, invigilation during examination, imposition of penalties on students of GNLU for malpracties, and other similar exam-related issues are governed by the Gujarat National Law University (Academic, Examination, Moots, Internship, Hostel and Related Matters) Regulations, 2015 (hereinafter referred to as the "**Rules**"). Annexed hereto and marked as **Annexure-A** is a copy of the aforesaid Gujarat National Law University (Academic, Examination, Moots, Internship, Hostel and Related Matters) Regulations, 2015.

4.2. On 02.11.2015, the Petitioner arrived at the Academic Block of GNLU to take the QT Examination, which was to take place from 01.30 pm to 04.30 pm. The said examination was originally taken by the Petitioner during his 3rd

semester, and thereafter, the Petitioner took a repeat examination for the said subject (as permitted under the Examination Rules); but, the Petitioner was unable to obtain requisite marks during the aforesaid 2 attempts, and was, therefore constrained to take the QT examination on 02.11.2015, in his 5th semester. The said facts are not relevant for the issue at hand, but the Petitioner is disclosing them nonetheless so as to avoid any baseless allegation of suppression of facts, from the Respondents, in this regard.

4.3. The invigilator for the Examination Hall where the Petitioner was taking the QT exam on 02.11.2015 was the Respondent No. 5 - Ms. Richa Sharma.

4.4. In terms of Regulation 20(o) of the Rules, the 'warning bell' for the QT exam rang at around 04.20 pm, i.e. 10 minutes prior to the completion of the exam.

4.5. At around 04.25 pm, i.e. approximately 5 minutes prior to the completion of the examination, the Respondent No. 5 suddenly bolted from across the Examination Hall and snatched the answer sheet of the Petitioner. Thereafter, the Respondent No. 5 started making crass allegations against the Petitioner in an extremely loud tone, with the very evident intent of humiliating the Petitioner before his peers. The exact language of the Respondent No. 5 was "*...you are hiding something in your underwear...*". The Petitioner objected to the use of such unparliamentarily language by the Respondent No. 5 before his peers, but the Respondent No. 5 advanced towards the Petitioner and stated that she would be physically frisking the Petitioner. The Petitioner objected to the said proposition of the Respondent No. 5 and out-rightly refused to permit the Respondent No. 5, who was a member of the opposite gender, to frisk the Petitioner and that before his peers, for obvious reasons and in the interest of modesty and propriety. What is pertinent to note is that the

Respondent No. 5 persisted, for some time, in her request to frisk the Petitioner, before finally conceding and indicating that the she would call another male faculty member – the Respondent No. 6, to frisk the Petitioner.

4.6. After about 15-20 minutes, i.e. around 04.45 pm, the Respondent No. 6 came to the Examination Hall. The Petitioner categorically stated that he had no objection to the Respondent No. 6 – a male, frisking the Petitioner, so that it could be verified that the Petitioner was not in possession of any copying/cheating or objectionable material, as was the baseless allegation of the Respondent No. 5. However, for reasons not known to the Petitioner, the Respondent No. 6 did not frisk the Petitioner. The Petition continuously insisted that he be frisked so that he could be exonerated of the allegation levelled by the Respondent No. 5, but the Respondent No. 6 did not do anything.

4.7. Thereafter, the Respondent No. 6 made a phone call from his cell-phone, and from the one sided conversation that the Petitioner heard, it appeared that he had called the Respondent No. 2 – i.e. the Director of GNLU. Thereafter, the Respondent Nos. 5 and 6 instructed the Petitioner that he must accompany them to the office of the Director. The Petitioner, in compliance of the said instruction, followed the Respondent Nos. 5 and 6.

4.8. Upon leaving the Examination Hall, the Petitioner went to his bag, which, as is the practice among all students, was placed outside the Examination Hall. In full sight of the Respondent Nos. 5 and 6, the Petitioner took his phone out of his bag and decided that he would call his parent (father) so that he could inform him regarding the events that had transpired. However, the moment the Respondent No. 6 saw that the Petitioner was about to call his parent, the Respondent No. 6 shouted in vernacular-Hindi "*...agar tune phone kiya apne baap ko to tera career khatam kar*

dunga..." (English: If you call your father, I will destroy your career). Many peons and ministerial staff of the university, as also the Respondent no. 5, heard the Respondent No. 6 making the aforesaid threat to the Petitioner. At this juncture, the Petitioner and Respondent No. 6 entered into a verbal altercation and the Petitioner told the Respondent No. 6 that he could not disrespectfully speak of the Petitioner's father for no apparent reason, and that the Petitioner would commit no illegality by calling his father and informing him about the events that had transpired.

4.9. However, the Respondent No. 6 did not budge. He threatened the Petitioner with 'dire consequences' if the Petitioner attempted to contact his father. Therefore, the Petitioner and Respondent Nos. 5 and 6 went to the office/cabin of the Director – Respondent No. 2. Another faculty member, Smt. Mamta Biswal was also called by the Director to his office.

4.10. Once the Petitioner and Respondent Nos. 5 and 6 were seated before the Director, the Petitioner once again requested that he be permitted to contact his father. At this juncture, the Director himself contact the father of the Petitioner and instructed that he reach GNLU forthwith. The Petitioner's father arrived at the office of the Director within 10-15 minutes.

4.11. Thereafter, in the presence of his father, the Petitioner narrated the true and correct version of facts (as above) to the Director. The Director patiently heard the entire version of facts. The Director confronted the Petitioner's father and stated that the allegation against the Petitioner was that he was hiding 'his cellphone or something else' in his undergarments. The Petitioner's father stated that he had no objection to the Petitioner being frisked by a male faculty member. However, the Director stated that there was no need to frisk the Petitioner. Thereafter, on instruction of the Director, the Petitioner took out his cellphone

(which he had taken from his bag outside the Examination Hall in presence of the Respondent Nos. 5 and 6) from his pocket. The Director acknowledged the fact that the allegation of the Respondent No. 5 that the Petitioner was hiding "his cellphone" in his "undergarments" was incorrect as the Petitioner's phone was taken by the Petitioner from his bag, as stated herein above. The Petitioner's father insisted that the Petitioner be frisked so that there would be no doubt that the Petitioner had any other incriminating material on his person. However, the Director did not direct any staff/faculty to frisk the Petitioner. Thereafter, the Director instructed the Petitioner to surrender his cell-phone in the custody of the University. The Petitioner, therefore, handed over his cell phone to the Director. The Petitioner also gave the passcode/password of his cellphone to the Director and left the Director's office with his father.

4.12. Thereafter, on 07.11.2015, at 12.28 pm, the Petitioner received an e-mail from

<examination@gnlu.ac.in> stating that the petitioner was required to remain present before one – "*exam inquiry committee*" at 2.30 pm, i.e. at a short notice of 2 hours, on that day itself. Annexed hereto and marked as **Annexure-B** is a copy of the said e-mail dated 07.11.2015 (at 12.28 pm), addressed by the Respondent No. 1 university to the Petitioner.

4.13. In compliance of the direction issued in the aforesaid e-mail, the Petitioner along with his father and a representative, remained present at the office of the Examination Department at 02.20 pm.

4.14. At this juncture, the Petitioner craves leave to briefly narrate the events that transpired at the university from 02.20 pm till around 05.00 pm on 07.11.2015.

4.14.1. The Petitioner was made to wait till 03.15 pm outside the Examination Committee office. In the

meantime, the Petitioner observed that the members of the purported "Exam Inquiry Committee" (the terminology used in the university's aforesaid e-mail) were sitting inside the room titled "Examination Committee Meeting Room".

4.14.2. During the 45 minutes that the Petitioner was made to wait, Ms. Richa Sharma – the Respondent No. 5 (purported complainant in the Petitioner's case, and invigilator during the Petitioner's exam) went inside the Meeting Room and very apparently briefed one of the members of the "Exam Inquiry Committee" – i.e. Ms. Pratima Dube – the Respondent No. 3, in the Petitioner's absence; as also, very shockingly, in the absence of the entire coram of the conveniently created 'Examination Inquiry Committee'.

4.14.3. The Petitioner was shocked to see (through the glass door of the Room) that his answer-sheet

as also his cellphone were being examined by being taken out of an unsealed envelop in an absolutely casual manner by the Respondent Nos. 3 and 5. Thereafter, the Respondent No. 5 left the Meeting Room.

4.14.4. This act on part of the so called Examination Inquiry Committee, of inviting the purported complainant to secretively discuss the matter in the Petitioner's absence was an absolute violation of the Petitioner's rights.

4.14.5. Now, at this stage, at around 3.20 pm, the Petitioner was called inside the Meeting Room. Along with the Petitioner, his authorized representative/advocate also entered the room but, in an absolutely rude and unparliamentarily manner, the Respondent Nos. 3 and 4 informed the Petitioner that only he would be permitted to remain present in the room and that no other person would be allowed to remain present. When the Petitioner's advocate politely inquired

from the Respondent No. 4 for the reason for taking such an unreasonable stand, she, in a very casual manner stated that "*...the Director has constituted this committee and you better go to the Director and procure written permission from him if you wish to remain present during the proceedings...*".

4.14.6. Thereafter, so as to strike a conciliatory note and not agitate the Committee members, the Petitioner's advocate, for lack of any other remedy, agreed to the unreasonable request of the Committee but requested that a copy of the finding or report of the Committee be provided to him before the Petitioner was called upon to sign the same. The Committee members refused this request as well.

4.14.7. At this stage, the Respondent Nos. 3 and 4, in a highly derogatory tone stated that if their wishes were not met, they would record that the Petitioner had refused to cooperate with the

Committee and that they would give their findings *ex parte*. Therefore, left with no option in view of the unreasonable stand taken by the Committee, the Petitioner entered the Meeting Room alone while his father and representative waited outside.

4.14.8. At this stage it is pertinent to note that the Petitioner was and had not been informed as to under which provision, this purported "Exam Inquiry Committee" has been constituted. The procedure or conduct of the said purported Committee has not been brought to the Petitioner's notice and it appeared that the said Committee had been constituted with the sole intention of harassing the Petitioner and arriving at a predetermined objective of destroying the Petitioner's academic career.

4.14.9. Now, after the Petitioner sat down, alone, before the Committee members, they informed the Petitioner that they would not hear him. The

Petitioner object and stated that he wanted to have a detailed hearing along with an opportunity to view the evidence against him, if any, as also an opportunity to confront his complainant(s). However, the Committee members stated that no such opportunity would be given to the Petitioner and that if the Petitioner so desired, he could write down his rendition of facts. The Committee members further stated that if the Petitioner did not obey their command and did not write down his version of facts, it would be presumed that he had accepted all the allegations levelled against him. It is pertinent to note that the Petitioner was not aware as to what allegation the Committee members were taking about or what allegations had been levelled against him by the complainant(s).

4.14.10. In view thereof, for lack of any other alternative, the Petitioner agreed to the unreasonable directive of the Respondent Nos. 3 and 4, but

requested that he be provided with a copy of the statement that he would write. The Respondent Nos. 3 and 4 denied even this harmless request, for reasons not known to the Petitioner. This shows the sheer arrogance, arbitrariness and predetermined mindset with which the Committee conducted its so-called inquiry.

4.14.11. In view of the aforesaid, the Petitioner gave his written statement as per the dictatorial directive of the Committee members. The Petitioner has, even as on date of filing of the captioned Petition, not been provided with a copy of the said statement given by him.

4.14.12. After the Petitioner's hand-written statement was taken by the Committee, the Committee members decided to take the Petitioner's cellphone, which had been in their custody since 02.11.2015 at 4.45 pm (collected from the Petitioner by the Director in his chamber, in presence of the Respondent Nos. 5 and 6, as

also Ms. Mamta Biswal and the Petitioner's father), and charged it. As they did not have the charger for the phone, the same was provided to them by the Petitioner so as to express his *bona fides* and that he had nothing to hide.

4.14.13. The Respondent Nos. 3 and 4 charged the Petitioner's phone and, asked for the password for accessing the phone. The Petitioner had already given the password for his phone while handing it over to the Director on 02.11.2015, but, once again, so as to not create any petty issue, the Petitioner gave the password to the Respondent Nos. 3 and 4.

4.14.14. Thereafter, the Respondent Nos. 3 and 4 examined the cell phone to their satisfaction. They accessed the Petitioner's private photographs; but, at the cost of his privacy, the Petitioner did not object to the said unreasonable act of the Committee members, so as to, once again, express his *bona fides*.

4.14.15. Thereafter, to the Petitioner's utter shock, the Respondent Nos. 3 and 4 called one Shri Santosh Thakur (purportedly belonging to the IT Department of the university), and informed the Petitioner that Shri Santosh Thakur would be copying all data from the Petitioner's phone to the university's desktop-computer. The Petitioner did not object to the same, however, the Petitioner gave his reservation as to the legality of such an action on part of the Respondent Nos. 3 and 4. Then, the Respondent Nos. 3 and 4 connected the Petitioner's phone to their desktop-computer and, having accessed and transferred all the private data in the Petitioner's phone, proceeded with viewing, on full-screen and in front of a handful of administrative staff, the Petitioner's private photos so as to, very obviously and deliberately, embarrass the Petitioner.

4.14.16. However, as had been the Petitioner's stand since the beginning, the Respondent Nos. 3 and 4 did not find any incriminating evidence/photos on the Petitioner's phone which could prove that the Petitioner had utilized it to copy during his QT (Quantitative Techniques) examination on 02.11.2015.

4.14.17. At one point, Respondent No. 4 excitedly exclaimed that she had "caught" the Petitioner when she found that the Petitioner had a photograph of certain notes of "Interpretation of Statutes" subject which was taught to the Petitioner during an earlier semester. However, having realized that the said photograph had nothing to do with the impugned issue or the QT examination, the Respondent No. 4 disappointedly returned to her normal self.

4.14.18. Therefore, what became evident from the aforesaid narration of facts is the university, through its officers, had, after retaining the

Petitioner's cellphone for 5 days, and after having found nothing to corroborate their baseless allegation, called the Petitioner for a fabricated and cosmetic hearing before a "Committee" in an absolutely casual and off the cuff manner with the express intent of meeting a procedural formality.

4.14.19. The Respondents, more particularly the Respondent Nos. 3 to 6, for reasons not known to the Petitioner, have engaged into a fishing/roving inquiry to find anything and everything to implicate the Petitioner and destroy his academic career.

4.14.20. Reverting to the narration of facts, once the Respondent Nos. 3 and 4 had exhaustively searched the Petitioner's phone and found no evidence of any malpractice, they returned the phone to the Petitioner, as they could do nothing else. The Petitioner, once again, requested for copies of his statement as also the

report/complaint submitted by the complainant(s), if any, but the Respondent Nos. 3 and 4 denied the said request.

4.15. At the end of his draconian interrogation at the hands of the Respondent Nos. 3 and 4, the Petitioner and his father went to the office of the Director so as to meet him. However, their request to meet the Director was out-rightly rejected and they were conveyed that the Director was "*...busy with other pressing issues...*" and that he would not meet them.

4.16. Having witness utter unfairness and injustice at the hands of the Respondents, the Petitioner, so as to set the record straight, immediately - upon leaving the university at around 04.45 pm, addressed an e-mail at 05.51 pm to the Director as also the university through the nodal Examination Committee, placing on record the events that had transpired since 02.20 pm on that day (as stated herein above). Annexed hereto and marked as

M. DAVE
CITY
STATE
510
DATE
2020
JARAT (INDIA)

Annexure-C is a copy of the said e-mail dated 07.11.2015 (at 05.51 pm) addressed by the Petitioner to the university and the Respondent No. 2 Director. Even as on date of filing of the captioned Petition, the Respondents have not replied to the said letter. It is respectfully submitted that their prolonged silence must be taken to suggest that they have admitted the contents of the Petitioner's said e-mail.

4.17. In the aforesaid e-mail, the Petitioner gave a detailed rendition of the unfair treatment that was meted out on him by the Respondent Nos. 3 and 4 at the behest of the Respondent No. 2. The Petitioner, *inter alia*, stated that the principles of natural justice had not been complied with and that the Petitioner had not been given an opportunity of being heard. The Petitioner also stated that he had not been permitted to confront his accuser(s)/complainant(s), that he was not permitted to be represented by counsel, and that he had not been provided with copies of

documents/records or report of the complainant(s), if any, or even his own statement. The Petitioner, therefore, concluded that the Committee comprising the Respondent Nos. 3 and 4 had been constituted as a mere formality and that, judging from the manner in which he had been treated, the Petitioner could expect nothing but arbitrariness and illegality from the Committee as also the rest of the Respondents.

4.18. Finally, the Petitioner, in his e-mail dated 07.11.2015, requested that the Respondents convey their final decision at the earliest; and, further requested that, in case the Respondents proposed to give adverse decision against the Petitioner, that they first give the Petitioner an opportunity of making written submission and confronting/cross examining the complainant(s) so that correct version of facts could be put to record.

4.19. However, to the utter shock of the Petitioner, on 03.12.2015, i.e. approximately 1 month since the

Petitioner had been humiliated by the Respondent Nos. 3 and 4, the Petitioner received a brief, non-speaking e-mail at 05.07 pm, summarily stating that the Examination Inquiry Committee had given a recommendation which had been approved by the Director, and that the Petitioner's QT exam stood cancelled. The e-mail did not contain any reasons for arriving at the adverse decision, nor did the Respondents deal with the contentions of the Petitioner's statement or his e-mail dated 07.11.2015. Annexed hereto and marked as **Annexure-D** is a copy of the aforesaid e-mail dated 03.12.2015 (at 05.07 pm) addressed by the Respondent No. 1 university to the Petitioner.

4.20. What is pertinent to note is that the Respondents waited for almost 1 month to convey a single sentenced, non-speaking decision. This was done with the obviously intent of buying time and ensuring that the new academic semester would start in January and the results of the ongoing/preceding semester would be declared by

the time the Petitioner would seek appropriate legal counsel and remedy.

4.21. Being aggrieved by the arbitrary, premeditated, cosmetic, superficial, illegal and unreasonable actions on the part of the Respondents, more particularly the Respondent Nos. 3 and 4 at the instruction of the Respondent No. 2, the Petitioner has been constrained to move this Hon'ble Court by filing the present Petition.

5. The Petitioner submits that the impugned decision(s)/action(s) of the Respondents, in not following the principles of natural justice, not giving the Petitioner an opportunity of being heard, not complying with their own aforesaid Rules and not providing a speaking punitive order - amongst other violations, are patently wrong, arbitrary, unreasonable, illegal and *ultra vires* Articles 14 of the Constitution of India, on the following, amongst other, grounds, each of which is without prejudice to the other:

GROUNDS

A. The Petitioner submits that the Respondent No. 1 is a State within the meaning of Article 12 of the Constitution of India. By virtue of the provisions of Article 14 of the Constitution of India, the Respondent No. 1 is bound to act fairly and reasonably and cannot act in an arbitrary, whimsical or unreasonable manner. By disregarding the well settled principles of judicial inquiry, as also its own Rules, the Respondent No. 1, through its officers, is acting arbitrarily, unreasonably and illegally. The Respondent No. 1 is attempting to deprive the Petitioner of his legal rights that have vested in him by law, in a totally arbitrary, unreasonable and illegal manner. In the said circumstances, the Petitioner submits that the decision(s)/action(s) of the Respondent Nos. 2 to 5, taken in name of the Respondent No. 1, are patently wrong, arbitrary, unreasonable, illegal and *ultra vires* Article 14 of the Constitution of India.

B. The Respondent No. 4, who was purportedly appointed by the Examination Committee of the Respondent No. 1 university as a member of 2-person Examination Inquiry Committee (but actually, was appointed by the Director) - is also, as per the official website of the Respondent No. 1, a member of the Executive Council. Under the aforesaid Rules, the decision of the "appropriate Committee", along with brief reasons for arriving at the conclusion against the erring student and all documents which are part of the evidence, is required to be furnished before the Executive Council for their decision on the disciplinary measure against the erring student. The Petitioner is unaware if the Respondents have submitted the decision communicated *vide* the e-mail dated 03.12.2015 before the Executive Council. However, assuming for the sake of argument (without for a moment conceding) that the Respondents have submitted the decision off the Examination Inquiry Committee to the Executive Council, the said submission would be a grave violation of the principles of natural justice and

judicial impartiality since the Respondent No. 4 – Ms. Shobhalata Udapudi is a member of both – the Examination Inquiry Committee as also the Executive Council. Therefore, the predetermined and oblique mindset of the Respondent No. 4 was fully capable of prejudicing the case of the Petitioner before the Executive Council as the Respondent No. 4 is definitely biased since she is seeking approval of her own decision. In this sense, the fundamental principle of judicial impartiality, encompassed in the Latin maxim – *Nemo judex in re sua* – has been knowingly vitiated and purposely circumvented.

C. The Petitioner respectfully submits that the entire mechanism of ratification of a decision of the "appropriate Committee" by the Executive Council has been vitiated by *mala fides* in the facts of the present case. Not only is there absolute bias in the mind of the Respondent No. 4, who is a member of both – the proposing as also the approving body; but there is also a distinct element of predetermination involved in the facts of the present case. It cannot be

expected that the Executive Council would do anything but surrender its judgment to the version of the Respondent No. 4. The Examination Inquiry Committee and the Executive Council would, therefore, in the peculiar facts of the present case, become indivisible. Each body would surrender to the bias of the other. Therefore, it is categorically established that the acts of the private Respondent Nos. 2, 3 and 4, are nothing but an oblique design to break down the fair machinery prescribed in the aforesaid Rules.

D. Now, without prejudice to the aforesaid, from the impugned e-mail dated 03.12.2015, it is clear that the view of the appropriate Committee was never submitted to the Executive Council. It was merely "*approved by the Director*". In this sense, the Director's approval is extrajudicial and illegal since he was not empowered to do something, which was actually an essential judicial function that was required to be performed by the Executive Council. Even otherwise, the Executive Council could not sub-

delegated this essential judicial function upon the Director. The *suo mot* transfer of this authority by the Director upon himself is, therefore, *ultra vires* and bad in law.

E. Even otherwise, the Director could not have taken part in any activity pertaining to the inquiry of the Petitioner. In the facts of the present case, the illegal interference of the Director is twofold: (i) The Director appointed the Examination Inquiry Committee (as had been stated by the Respondent No. 4 on 07.11.2015); and (ii) the Director approved the decision of the Examination Inquiry Committee. However, both the aforesaid decisions are violative of Article 14 of the Constitution of India. Under the Rules, the Director has unilateral authority to constitute the Examination Committee. In furtherance of his design to absorb all authority within his designation, the Director, in the facts of the present case, instead of permitting the Examination Committee to appoint/constitute an "appropriate Committee" (as mandated by the

Rules), has appointed the Examination Inquiry Committee himself, thereby, superseding the authority of the Examination Committee. Thereafter, instead of seeking approval of the Executive Council, the Examination Inquiry Committee has (for obvious reasons) sought approval of the Director. Therefore, it is evident that the Director has taken personal interest in the present case, and has ensured that all the decision making activities that were required to be performed by three separate bodies - i.e. the Examination Committee, the Examination Inquiry Committee and the Executive Council, are performed by the Director himself. It is, therefore, obvious that fairness cannot be expected from the University and its officers, who operate at the dictat of the Director, and that the impugned acts and decisions of the Respondents are arbitrary, illegal and procedurally and judicially hollow.

F. The university and its officers – the Respondent Nos. 2 to 6 herein, have, as has been elucidated herein above, devised a novel, albeit wayward, mechanism

to centralize and concentrate all authority and power in the hands of a select few. The functions and powers of each of the private Respondents intermingles with the functions and powers of the other private Respondents. The Respondent Nos. 2 to 6, who are entrusted by the citizens of India to operate a premium institute imparting legal education, have effectively made GNLU into an oligarchy, where a select few whimsically decide the future of students. The Respondents are, therefore, guilty of arbitrariness, illegality and gross breach of trust and good faith, and the captioned Petitioner is required to be allowed with full and consequential reliefs, with exemplary cost to the Respondents, for this reasons alone.

G. The principle of *Audi Alteram Partem* has been given a complete go-bye by the Respondents. It is a settled principle of law that the right of being heard, being the most far-reaching of the principles of natural justice, encompassing fair procedure, due process and fair hearing, is required to be followed by an

authority capable of affecting a citizen with punitive overtones. However, the Respondents have, despite the written request of the Petitioner, not complied with this fundamental principle having universal application. The Respondent Nos. 2, 3 and 4 have supplanted their prejudices in place of the Rules framed for the welfare of the university's students. The impugned decision of the Respondents is, therefore, required to be quashed and set aside.

H. The Petitioner has an unequivocal fundamental right to know the case against him, as concocted by the Respondents. Even as on date of filing of the captioned Petition, the Petitioner has no knowledge or details of the case that has been one-sidedly concocted by the Respondents. Therefore, the Petitioner has had no opportunity to contradict or face any view or contention that would have been made by the Respondent Nos. 5 and/or 6 [the original complainant(s)] as also the Respondent No. 3 and 4 (the adjudicators). The Petitioner has had no opportunity to face adverse evidence, if any.

Therefore, the Petitioner has, even to the date of the filing of the captioned Petition, no knowledge as to on basis of what evidence, if any, he has been subjected to such harsh punishment affecting his academic career. The Respondents' decision and action is, therefore, grossly criminal, violative of the fundamental and settled principles of law, and further violative of Article 14 of the Constitution of India.

I. The impugned decision conveyed by the Respondents on 03.12.2015 is without any reasons. The decision is non-speaking. The Petitioner is, therefore, unable to tell whether it is reviewable or not, and therefore, the Petitioner has been deprived of the protection of the law. Since the Respondents have not given any reasons for their impugned decision, the adequacy of the said decisions, if any, cannot be evaluated by the Petitioner.

J. Without commenting on the *bona fides* of the cosmetic hearing conducted by the Respondent Nos. 3 and 4, the hearing has not been conducted by the

authority that has given the final decision. The deciding authority and the hearing authority are, for all practical purposes, separate and, the deciding authority has no material to make the impugned decision but for his predetermined mindset. Therefore, it is evident that for all practical reasons, the cosmetic hearing on 07.11.2015 was a mere formality and that the impugned decision had already been taken by the Respondents much before the hearing even took place.

K. The Petitioner – a student on the rolls of the Respondent No. 1 university, can be said to have, under common law - enshrined under and protected by fundamental rights guaranteed by the Constitution of India - entered into an contract with the Respondent No. 1 and must be governed and protected in terms of the said contract. The Respondents have framed the aforesaid Rules to govern the Petitioner. The Respondents have, therefore, violated their covenant with the Petitioner and have, resultantly, violated the Petitioner's

fundamental rights enshrined under Article 14 of the Constitution of India.

L. The Rules categorically state that the Examination Committee is required to look into any report that may be submitted by a faculty – purportedly, the Respondent Nos. 5 and/or 6 in the present case – for unfair means and malpractice during examination and thereafter for taking proper disciplinary action against them. The Examination Committee is required to consider as to whether a *prima facie* action is required to be taken against any student. The Examination Committee is, further, required to issue a show cause notice to the student indicating alleged misconduct. By not complying with these fundamental requirement settled by law and reiterated in their own Rules, the Respondents, more particularly the Respondent Nos. 2, 3 and 4, have violated the rights of the Petitioner and have, furthermore, vitiated the entire disciplinary proceedings in furtherance of their personal vendetta and vengeful agenda. The actions of the

Respondents, are, therefore, arbitrary, illegal and violative of Article 14 of the Constitution.

M. The Petitioner was, in the peculiar facts of the case, required to be furnished with copies of the report(s)/document(s) which were being relied upon and used against him. Despite repeated written and oral requests, and in breach of their own Rules, the Respondents neither provided the Petitioner with copies of the said report(s)/document(s), nor permitted the Petitioner to verify or inspect the same. The Respondents are, therefore, guilty of promoting their own autocracy over settled principles of law as also their own Rules. The acts of the Respondents and communications issued in furtherance thereof are, therefore, violative of Article 14 of the Constitution.

N. The Petition was, in the atypical facts of the case, required to be provided with a copy of his own statement, which was forcefully extorted from him by the Respondent Nos. 3 and 4 on 07.11.2015. By not

providing the said statement, the Respondents have, once again, in furtherance of their now longstanding autocratic regime over the university and its students, violated the principles of natural justice. The Respondent Nos. 2 to 6, who are teachers claiming to impart legal education to students, are, in absolute violation of their own Rules as also the well settled principles of law, treating the Respondent No. 1 University and its students as their own fiefdom.

O. The Respondents were mandatorily required to provide a detailed show cause notice containing the proposed penalty that could be imposed on the Petitioner, as also the detailed allegations against the Petitioner. However, instead of complying with this provision in spirit, the Respondents, *vide* their e-mail dated 07.11.2015 – attempted to cosmetically comply with this key provision of the Rules. The said e-mail dated 07.11.2015 neither contained the proposed penalty that would be imposed on the Petitioner nor the detailed allegations levelled against the Petitioner. The Respondents are, therefore, guilty of

utilizing their authority to blindside the Petitioner and are, further, guilty of violating well settled principles in law.

P. Under the aforesaid Rules, the Respondents were required to permit the Petitioner to furnish an explanation within the prescribed time and were, further, required to provide the Petitioner with an opportunity of personal hearing. The Examination Inquiry Committee was required to give the Petitioner reasonable opportunity to defend the allegations that were being made against him. The Respondents have complied with none of the aforesaid three key prerequisites. The Respondents are, therefore, guilty of violating their own Rules, and are further guilty of conducting a slip-shod inquiry with the purported intention of according cosmetic credence to their *mala fide* pre-design. The actions of the Respondents are, therefore, arbitrary, illegal and unreasonable, and are liable to be quashed and set aside with exemplary cost on the private Respondent Nos. 2, 3 and 4, who have, in exercise of their authority,

maligned the goodwill of the Respondent No. 1, as also the reputation of the Petitioner.

Q. According to the Rules, the Respondents were required to submit the report implicating the Petitioner, containing reasons for arriving at the conclusion against the Petitioner, along with documents, which were part of the evidence, before the Executive Council. The Respondents have failed to comply with the said mandatory provision of the Rules, and, therefore, the acts of the Respondents, including but not limited to the impugned communications, are arbitrary, illegal and in violation of Article 14 of the Constitution of India as also the aforesaid Rules.

R. The arbitrary, unreasonable, vexatious and illegal stand taken by the Respondents, more particularly the Respondent Nos. 3 and 4 at the behest of the Respondent No. 2, in not considering the requests of the Petitioner, tendered *vide* the Petitioner's e-mail dated 07.11.2015, has tremendously prejudiced the

fundamental rights of the Petitioner. The Respondents have illegally and with evident *mala fide,* bypassed the mandatory requirements of their own Rules as also settled principles of law. The Respondents have, for reasons not known to the Petitioner, refused to provide an effective hearing to the Petitioner and have further refused to conduct a *bona fide* inquiry, as prescribed under the Rules. The Respondent Nos. 2, 3 and 4 have, therefore, rendered the aforesaid Rules as also the principles of natural justice, absolutely null, irrelevant and otiose.

S. Without prejudice, assuming for the sake of argument (without, for a moment, conceding) that the case of the Respondents is that the Petitioner had a cell phone within the Examination Hall, the Respondents have (i) not been able to prove the said fact; and (ii) not been able to establish as to what alleged depictions within the said cellphone allegedly possessed by the Petitioner, were utilized by the Petitioner for committing the alleged malpractice. This is despite the fact that the Respondents retained

the cellphone of the Petitioner for 5 days and had full access to the phone during this period. Therefore, the question of summarily penalizing the petitioner under the provisions contained in Regulation 44 of the Rules does not arise. The unnatural haste with which the Respondents have sought to destroy the academic career of the Petitioner categorically establishes that the entire mindset of the Respondents is and always has been *mala fide*.

T. The Preamble to the Rules itself states that the Academic Council – which has as its members the Respondent Nos. 2 and 4, in its purported prudence, recommended the creation of the Rules with specific and detailed procedures to be followed in certain special circumstances, even though there already existed the Gujarat National Law University Regulations, 2009. Therefore, the Respondents, more particularly the Respondent Nos. 2 and 4 have acknowledged the importance of the Rules and it is nothing but their own making. In background of this fact, the absolute disregard of the Rules as also the

settled principles of law by the Respondents, more particularly the Respondent Nos. 2 and 4 who were instrumental in creating the new (present) Rules, is an egregious misuse of their power and is violative of the Petitioner's fundamental and legal rights.

U. The Petitioner submits that the actions/decisions of the Respondents amount to a *mala fide* exercise of discretionary powers, constitute an abuse of power, and are not only arbitrary and unreasonable but oppressive and harsh.

V. The Petitioner submits that both, the decision-making process, as also the decision of the Respondents, are vitiated by legal *mala fides* and arbitrariness. The Respondents, being public functionaries, were and are bound to act reasonably and fairly.

6. The Petitioner, therefore, states and submits that the impugned decisions/actions of the Respondents, as elucidated herein above, are patently wrong, arbitrary, unreasonable, illegal and *ultra vires* Article 14 of the

Constitution of India. The Petitioner respectfully submits that this Hon'ble Court ought to grant to the Petitioner the final, *interim* and *ad interim* reliefs prayed for herein after. The Petitioner submit that if the *ex parte ad interim* reliefs prayed for are not granted and the non-speaking, summary decision of the Respondents, conveyed by their e-mail dated 03.12.2015, is not stayed, quashed and set aside, the same will result in grave and irreparable harm, prejudice, loss and injury to the Petitioner and will irreversibly affect his academic career. If the impugned decision of the Respondent is not stayed, then the attendance requirements of the Petitioner for the subsequent semesters would be irreversibly prejudiced and a domino-effect would result into further academic and attendance based disqualifications of the Petitioner. In these circumstances, the Petitioner respectfully submits that it is right and proper, and in the interest of justice, equity and good conscience, that, pending the adjudication and final disposal of the present Petition, this Hon'ble Court be pleased to grant to the Petitioner, the *interim* and *ad interim* reliefs prayed for herein below. The Petitioner submits that grave and irreparable harm, prejudice and injury will be caused to him

if the *interim* and *ad interim* reliefs prayed for herein below are not granted. The Petitioner submits that the balance of convenience is overwhelmingly in favor of the Petitioner and against the Respondents.

7. The Petitioner has not filed any other Petition or proceedings in respect of, or concerning, the subject matter of this Petition in the Hon'ble Supreme Court of India or in this Hon'ble Court or in any other Hon'ble Court in India.

8. The Petitioner does not have any other alternative efficacious remedy available to him under law and the reliefs prayed for in this Petition, if granted, would be full and complete.

9. As the Respondents have not provided any documents/records or reports to the Petitioner as on date of filing of the captioned Petition, the Petitioner craves leave to add, alter and amend the captioned Petitioner or file additional affidavit(s), with leave of this Hon'ble Court, if any when the Respondents produce documents/records or reports that they were required to provide to the Petitioner, but have not.

10. The Petitioner, therefore, prays, that this Hon'ble Court be pleased:

a. To issue a Writ of Mandamus, or a Writ in the nature of Mandamus, or any other appropriate Writ, Order or Direction cancelling the decision communicated *vide* e-mail dated 03.12.2015 (at Annexure-D), and further cancel any communication(s) issued/action(s) taken in furtherance of the aforesaid e-mail dated 03.12.2015, and further direct the Respondent No. 1 University to evaluate the Quantitative Techniques examination taken by the Petitioner on 02.11.2015 and declare the result thereof in the prescribed format forthwith;

b. To declare that the communication dated 03.12.2015, issued by the Respondents to the Petitioner is arbitrary and illegal, and that in purported summary inquiry conducted on 07.11.2015, by the Respondent Nos. 3 and 4 at the behest of the Respondent No. 1 is arbitrary, illegal and violative of the fundamental and legal rights of

the Petitioner, and is further violative of the Gujarat National Law University (Academic, Examination, Moots, Internship, Hostel and Related Matters) Regulations, 2015, and that the said inquiry and all resultant decisions are illegal and are quashed and set aside;

c. That pending the admission, hearing and final disposal of this Petition, this Hon'ble Court be please to restrain the Respondents, their servants, agents, officers and permitted assigns, from, in any manner whatsoever, taking any action whatsoever and/or acting upon the communication/e-mail dated 03.12.2015, and furthermore, stay and suspend the operation and implementation thereof by the Respondent No. 1 University through its Director or other officers, called by any name whatsoever, and further be pleased to direct the Respondent No. 1 University to evaluate the Quantitative Techniques examination taken by the Petitioner on 02.11.2015 and declare the result thereof in the prescribed format forthwith;

d. To issue *ex parte ad interim* relief in terms of Prayer Clause 10(c), above;

e. Pass such other and/or further order/s that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case; and

f. Award costs.

AND FOR THIS ACT OF KINDNESS AND JUSTICE, THE PETITIONER SHALL, AS IN DUTY BOUND, FOREVER PRAY.

Place : Ahmedabad
Date : 10.12.2015

Gursharan H. Virk
Advocate for the Petitioner

AFFIDAVIT

I, Jaymin R. ~~Bhram~~rah bhatt, son of Shri Rajendra B. Brahmbhatt, aged about 20 years, Indian inhabitant, the Petitioner herein, do hereby solemnly affirm and state on oath that what is stated in paragraph nos. 1, 2, 3, 4, 6(part), 7 and 9(part) is true to

my knowledge and to the best of my information gathered from the record, and I believe the same to be true; and contents of paragraph nos. 5, 6(part), 8 and 9(part) are legal submissions. Paragraph no. 10 is the prayer clause.

I state that Annexures to this Petition are true copies of the originals of which they purport to be copies.

Solemnly affirmed at Ahmedabad on this, the 10th day of December, 2015.

IDENTIFIED BY ME

ADVOCATE

DEPONENT

NOTARY
NAREN M. DAVE
AHMEDABAD CITY
OF GUJARAT STATE
REGD. No. 1310
EXPIRY DATE
09/02/2020
GOVT. OF GUJARAT (INDIA)

SR. NO. 8644-2015
SOLEMNLY AFFIRMED
BEFORE ME

NAREN M. DAVE NOTARY
DATE 10/12/15

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