



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO.
446 of 2025

In R/LETTERS PATENT APPEAL NO. 196 of 2025
With
R/LETTERS PATENT APPEAL NO. 196 of 2025
In
R/SPECIAL CIVIL APPLICATION NO. 14100 of 2024
With
R/FIRST APPEAL NO. 196 of 2025

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CHAITANYA VYAS

Versus

PANDIT DEENDAYALA ENERGY UNIVERSITY

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Appearance:

MR SANDIP H MUNJYASARA(10781) for the Applicant(s) No. 1

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CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 30/01/2025

ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)

1. This appeal has been filed with the delay of 41 days. The delay has been explained to the satisfaction of the Court. Delay condonation application is hereby allowed. Delay of 41 days is hereby condoned. Office is directed to allot regular number to the appeal.
2. Heard learned counsel for the appellant and perused the record.
3. This is a wholly misconceived appeal filed by an



Examiner who had examined certain answer-sheets of the examination conducted by the University as Course Coordinator of Business Research Methods (BRM) at Pandit Deendayal Energy University at Gandhinagar. The Writ petition has been filed by the petitioner by appending the sheet of evaluation of the marks of certain students at page '10' of the paper-book of the original Writ petition stating that as per the evaluation made by the appellant-original petitioner of the answer-sheet of end-semester examination conducted on May 2023, '98' students failed the subject, whereas 'five (5)' students remained absent. It is stated that the students whose answer-sheet was evaluated by the appellant-original petitioner were due to pass the graduation and participate in the upcoming convocation as they were students of 2020-2024 batch. In spite of the marks allocated by the petitioner as an evaluator, the respondent University had illegally assigned marks to 30 students who had actually failed as per the assessment made by the petitioner. The contention is that the University has manipulated the results to preserve its reputation.

4. Taking note of these contentions made in the Writ petition, we have raised a pointed query to the learned counsel for the original petitioner as to how and in what manner he could have access to the evaluation sheet appended at page '10' of the paper-book as Annexure 'A', as being examiner, he cannot have the proper custody of the evaluation sheet. No answer is forthcoming. The



submissions made by the learned counsel for the appellant at the bar that the evaluation sheet was with the original petitioner as it was sent through email to the University as per the procedure prescribed by the University is neither here nor there. We may record that we cannot lay credence to the documents appended at Annexure 'A' to the Writ petition as it cannot be said to have been obtained from a proper source. In our considered opinion, the original petitioner being the examiner, could not have access to the evaluation sheet after the evaluation is completed by him, inasmuch as, evaluation sheet is a confidential document to be kept in the custody of the Examination Committee or any other competent authority of the University.

5. A further perusal of the record indicates that the petitioner had indulged in some communication with the Registrar of the University by raising a grievance by letter dated 05.02.2024. The said document was sought to be placed before us to answer the query of the Court that the petitioner had approached the University, but his grievances were not met. On the said document being placed before us, we have raised a further query as to when the petitioner had submitted the evaluation sheet and the date when the results were declared. As per the statement made by the learned counsel for the appellant in answer to the said query, the evaluation sheet was submitted by the petitioner in the month of May 2023 and the result was declared in June 2023. Be that as it may, the petitioner cannot be said to have



raised grievances before the competent authority, i.e. the executive council of the University which is the apex body.

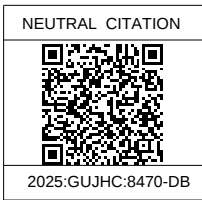
6. We may further record that as is evident from the page '18' of the paper-book, there were some complaints against the appellant herein and an explanation had been called from him in the month of July 2023 itself, i.e. soon after the declaration of the result. The letter dated 05.07.2023 of the Director, School of Liberal Students (SLS) at page '18' of the paper-book indicates that with reference to the paper titled "Business Research Method" taught and examined by the petitioner as a course coordinator of the students of 6th Semester for January to June 2023, there were mass representations by the students on the grievances regarding question paper and evaluation against the petitioner. The letter further indicates that the petitioner had remained non-cooperative and unapproachable at various levels of the officials who were trying to contact him and solve students' concerns. Explanation was sought from the petitioner on various points, including that he did not keep the Controller of Examination office informed of the two sets of question papers submitted by him in light of not keeping the HOD/Dean/Director informed. It was further asked as to why the question paper mapping with course objective justification and balanced coverage of the syllabus in the end-semester question paper was not adhered to as per the norms? There are allegations of disparity in the results of internal/mid-



semester and end-semester examination where some students scored full in the internal and mid-semester but scored zero in the end-semester paper. It was asked from the petitioner whether the attendance or lack of it for the course was duly marked in the TCS and notified to school for any academic enrichment? Was the answer key vetted by the HOD? If not, did the petitioner keep HOD informed? Why marks for correct steps to arrive at an answer were not considered. There are allegation of insubordination of the School Director by refusing to reply despite an email sent from the Director, School of Liberal Studies on June 14, 2023.

7. We may further note that a cautionary letter dated 07.08.2023 had been issued to the petitioner stating that it was in a specific reference to the concern raised by the students for the paper titled "Business Research Method" taught and examined as a Course Coordinator to 6th Semester students for January to June 2023 and further an email by the Director, SLS dated 05.07.2023 and the reply of the petitioner dated 07.07.2023. The said letter records that :-

- 1) Not keeping the Director/Dean/HOD nor the COE informed for the two sets of question papers with varying levels of difficulties that you submitted to COE office for the exam scheduled on the same date and time.
- 2) The question paper mapping with CO justification and balanced coverage of the syllabus in the end-semester question paper was not adhered to as per the followed norms.

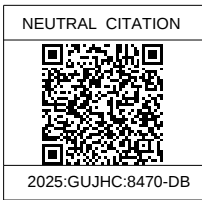


- 3) Erratic marking criterion used across mid/internal and end Semester for students.
 - 4) Evaluation method has not been implemented as per normal practice by you.
 - 5) Insubordination shown by you to the school director by refusing to reply despite an email sent by the Director on June 14, 2023 to you soliciting an immediate reply in order to resolve the concerns of the students.
 - 6) Lack of proactive review as a course coordinator about the poor academic performance by the majority of the BRM students.
8. It was, thus, intimated to the petitioner that the petitioner has failed to observe the University's academic, administrative and behavioral norms and has been warned to refrain from any such activity that is deterrent to the progress of the stakeholders and fulfillment of the University's vision. The registrar of the University has warned the petitioner to take note of the direction issued by the Director General to desist from doing the same in future.
9. We may further record that it seems that the petitioner had kept silence for some time and again wrote a letter to the Under Secretary to the University Grants Commission. With reference to the letter received from the Under Secretary, University Grants Commission dated 22.03.2024, the Registrar of the University responded with respect to the issues raised before the University Grants Commission. It is categorically stated therein that there was no question of manipulation of the



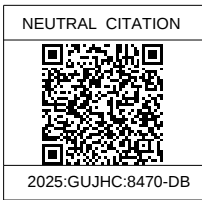
result, rather in order to ensure that the students are not harmed unnecessarily, as system of moderation by the Moderation Committee headed by the Director General of the University was followed, which was empowered to moderate the marks. The same was done and after due diligence, 30 students had passed bringing the failure to 68 (30.49%). The process of moderation is in order and completely legal and ethical. With regard to the conducting of examination on two consecutive days for the same paper and syllabus, it was categorically replied that the procedure was in order and students cannot make a simple judgment that the question paper which came on the first day would not be repeated on the second day. Moreover, in all online competitive examination in the country, exams for the course and syllabus are conducted on different days and different shifts and if required, process of normalisation is followed.

10. Taking note of the above, we may record that an intimation was sent by the Under Secretary to the Principal Secretary, Department of Higher and Technical Education to deal with the complaint made by the petitioner at its own end.
11. Be that as it may, it is more than evident that the petitioner who was merely the Course Coordinator and Examiner who had evaluated the answer-sheets of certain students for the paper "Business Research Method" of 6th Semester students, cannot any



grievances for the methodology adopted by the University for moderation of the marks allocated by the petitioner as an Examiner.

12. The content of the letter dated 05.07.2023 issued by the Director (SLS) clearly shows that the petitioner did not adopt proper methodology for the purpose of setting of papers. The papers set-up by the petitioner were not moderated as they were not intimated to the concerned officer. The answer key was not vetted by the Head of the Department as there is no response to this aspect in the present petition. The content of the letter dated 07.08.2023 of the Registrar, University, as extracted hereianbove, clearly indicates that the petitioner had adopted erratic marking criteria across mid/internal and end-semester for students. The evaluation method has not been implemented as per normal practice by the petitioner. There is an incident of insubordination of the School Director and the lack of proactive review as a Course Coordinator about the poor academic performance by majority of the University students. The petitioner has been found guilty of not keeping the Director/Dean/HOD or the Controller of Examination informed for the two sets of question papers with varying level of difficulties, which was submitted in the office of the Controller of Examination for the examination scheduled on the same date and time.
13. Coming to the response submitted by the petitioner with the letter dated 07.07.2023, it may be recorded that a



statement has been made to the effect that the petitioner had not submitted two sets of question papers to the exam office but had submitted two question papers and had clarified to the Controller of Examination about two question papers. With regard to the question about paper mapping with course objective justification and balance coverage of the syllabus in the end-semester question paper and not adhering to the norms, the answer is that the allegations are false and the question papers were required to be reviewed after the exam by the Committee as per the circular of the University and the petitioner had not received any communication from such a Committee. About disparity in the result of internal/mid-semester and end-semester, it is stated that the students have scored according to their performance in the components. About the attendance or lack of it, not being duly marked by the petitioner, it is answered that the petitioner had the attendance record which could not be uploaded on TCSion because mapping was not done on TCSion and he sought help from the administration vide email dated 20.02.2023 but no solution was given. The answer to the question that the answer key was not vetted by the HOD is in 'Yes' and the contention is that was so because there is no such rule communicated to the petitioner ever. The petitioner had admitted that he did not keep the Head of the Department informed and explains that the same was because there was no such University rule communicated to him. About insubordination, the allegations have been termed as baseless.



14. On the aspect of the locus of the petitioner to challenge the action of the University, the learned counsel for petitioner has relied on the decisions of the Apex Court in **S.P. Gupta vs. Union of India [1981 (Supp) SCC 87]**, **Bangalore Medical Trust vs. B.S. Muddappa & Ors. [(1991) 4 SCC 54]** and **Kiran Devi vs. Bihar State Sunni Wakf Board [(2021) 15 SCC 15]**.
15. For these acts of the petitioner, as reflected from the record, he cannot seek indulgence of this Court to get a relief of issuance of direction to the University that the University had acted illegally in declaring the results in moderation of 30 students, who were given marks by the petitioner in an erratic manner.
16. Apart from the above, in our considered opinion, the petitioner being an evaluator/examiner, was required to keep his hands off once the evaluation sheet was submitted by him and was not required to indulge in any kind of head-on-collision with the University authority.
17. All these issues reflected from the record are sufficient to form an opinion that the filing of the present petition in the month of September 2023, after about a period of more than one year of the declaration of result in the month of June 2023, is nothing but a sheer abuse of the process of the Court. No infirmity can be attached to the opinion drawn by the learned Single Judge that the petitioner being a paper setter as well as evaluator, his role is limited to set the paper and evaluate it and he has no locus to seek any relief in terms of the prayers made



in the Writ petition and, therefore, the abovenoted judgments relied by the learned counsel for the petitioner is of no help.

18. The present appeal has been filed in the month of January 2025 to agitate the issues as raised before the Writ court. For the facts noted hereinabove, we are of the considered opinion that the petitioner has been unfair in not bringing correct and complete facts before the learned Single Judge in the original Writ petition. For the act of the petitioner in approaching this Court without their being any locus to assail the result declared by the University by adopting the process of moderation, after about a period of one year two months, we find it fit to dismiss the appeal with the cost of Rs.50,000/-, which shall be deposited by the petitioner within a period of three weeks from today. The cost so deposited shall be transmitted to the High Court Legal Services Committee for the cause of the orphan students pursuing higher studies. Dismissed, as such.
19. After the order was dictated in the open court, the request made by the learned counsel for the petitioner to stay the operation of the order is hereby refused because of the reasoning given hereinabove.

(SUNITA AGARWAL, CJ)

(PRANAV TRIVEDI,J)

BIJOY B. PILLAI