

(2022) 12 GUJ CK 0027

In the Gujarat High Court

Case No : R/Special Civil Application No. 19486 Of 2022

Ayazkhan Firozkhan Pathan

APPELLANT

Vs

Gujarat University

RESPONDENT

Date of Decision : 01-12-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 12 GUJ CK 0027

Hon'ble Judges : Bhargav D. Karia, J

Bench : Single Bench

Advocate : AR Thacker, Shivang A Thacker, Vikas V Nair

Final Decision : Dismissed

Judgement

Bhargav D. Karia, J

1. Heard learned advocate Mr.Shivang Thacker for the petitioner and learned advocate Mr.Vikas V. Nair for the respondent.

2. By this petition under Article 226 of the Constitution of India, the petitioner has prayed to direct the respondent-University to declare petitioner as having passed the paper of Company Law in examination held in the month of May, 2022 in Semester-II of Bachelor of Law programme.

3.1. The brief facts of the case are that the petitioner after completion of his graduation got enrolled for LLB and admitted in S.V.B. Law College, Gandhinagar.

3.2. The petitioner appeared in examination of 2nd Semester held by the respondent-University in May, 2022 and was declared fail in Company Law subject. The petitioner obtained 20 Marks out of 100 Marks as per the Marksheet at Annexure-B (page No.12).

3.3. It is the case of the petitioner that the question paper of the Company Law was of theory for 60 Marks and out of those 60 marks, the pro rata calculation has been made to calculate the marks obtained out of 100 marks because there

was no internal examination/assessment held.

3.4. The petitioner thereafter applied for reassessment by making an on-line application on 17th June, 2022.

3.5. The revised result of the petitioner was declared on 24.08.2022. As per the revised result, two marks were added in the total marks and the marks awarded to the petitioner was calculated as 22 marks out of 100 marks.

3.6. The petitioner therefore being aggrieved by the reassessment has filed this petition with the aforesaid prayer.

4.1. Learned advocate Mr. Shivang Thacker for the petitioner submitted that the petitioner has also placed on record the answersheet provided to the petitioner under Right to Information Act. Learned advocate Mr. Thacker invited the attention of the Court to the answersheet prior to the reassessment under the Right to Information Act. It was pointed out from the answersheet that the respondent-University has scored off the marks given to the petitioner in question No.1 and only marks are given in question Nos.2 and 3 and though the petitioner obtained 22 marks out of 60 marks, the marks awarded to the petitioner are considered as 12 marks only.

4.2. It was therefore submitted that the petitioner's pro rata marks out of 22 could have been considered instead of 12 marks.

5.1. On the other hand, learned advocate Mr. Vikas Nair for the respondent-University referred to and relied upon the affidavit filed by the Dean of the Law of the respondent-University and another affidavit filed by the Controller of the Examiner and submitted that the respondent-University has conducted reassessment twice by the experts and thereafter, on the basis of such reassessment only two marks were increased in the pro rata calculation. It was submitted that the responsible officer of the University has also brought the original answersheet which is reassessed and placed it before the Court for perusal. It was pointed out that on reassessment, only one mark is increased i.e. from 12 to 13 as stated in the affidavit-in-reply and there is no mistake on the part of the examination of the answersheet of the petitioner as alleged by the petitioner by not giving 10 marks for the question No.1.

5.2. It was submitted that no marks are given for question No.3 as even after reassessment, the answer given by the petitioner is found to be false. Therefore, the marks are given for only question Nos.1 and 2.

6. In view of the above facts emerging from the record and the respondent-University has considered the answersheets by the experts for two times, this Court is not required to further examine the answersheet and the contention raised by the petitioner while exercising jurisdiction under Article 226 of the Constitution of India.

7. The petition is therefore devoid of any merit and is accordingly dismissed.

Notice is discharged.