

(1995) 02 GUJ CK 0044

In the Gujarat High Court

Case No : Special Civil Application No. 8536 of 1994

Chiragbhai Bhupendrabhai Patel

APPELLANT

Vs

Gujarat Higher Secondary Education Board

RESPONDENT

Date of Decision : 04-02-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1995 Guj 159

Hon'ble Judges : R.A. Mehta, J

Bench : Single Bench

Advocate : A.D. Oza, for the Appellant; M.C. Bhatt, for the Respondent

Final Decision : Allowed

Judgement

R.A. Mehta, J.—These are the matters where each of the petitioners is alleged to have committed unfair practice at the examination and the authority has therefore, passed orders cancelling examination of the petitioners-students. Identical matter being Spl. C.A. No. 8540 of 1994 is dismissed on 5-10-1994 and therefore, these petitions based on the same facts also deserved to be dismissed.

2. The learned advocate for the petitioners also relied upon the judgment of the Allahabad High Court in the case of Sachinkumar v. The Vice-Chancellor, Purvanchal University, Jaunpur reported in 1994 (1) Education and Service Cases 456 (All). It was a case of allegation of mass copying as a result of which the entire examination held on 13-8-1993 and 14-8-1993 was cancelled and the learned single Judge had come to the conclusion that there was no basis for the Examination Committee to cancel the examination for mass copying and unfair means. In the present case there is clear evidence of the copying materials having been found from the possession of the petitioners-students and on that material each student himself has made an endorsement of the material having been recovered from him and the endorsement is signed by the petitioner.

3. Though the judgment of Allahabad High Court is relied upon by the petitioners

said judgment is not at all applicable to the facts of the present case. When the integrity and fairness of the petitioners is doubtful, it may be open to the examining authority to cancel and hold examination afresh in the interest of integrity and fairness of the examination as a whole so that there is fairness in the examination. In the circumstances, such action of cancelling of examination and holding re-examination cannot be termed as irrational and unreasonable. However, in the present case that question does not arise.

Therefore, the petitions are dismissed Notice discharged.