

(2005) 02 GUJ CK 0011

In the Gujarat High Court

Case No : Special Civil Application No. 1190 of 2005

Mayankkumar Gopalbhai Patel

APPELLANT

Vs

Principal, R.G. Shah Science College

RESPONDENT

Date of Decision : 09-02-2005

Acts Referred:

Constitution of India, 1950 — Article 226
Contract Act, 1872 — Section 17
Gujarat University Ordinances — Ordinance 136A

Citation : (2005) 02 GUJ CK 0011

Hon'ble Judges : K.M. Mehta, J

Bench : Single Bench

Advocate : D.P. Vora, for the Appellant; V.D. Nanavati, for the Respondent

Final Decision : Dismissed

Judgement

K.M. Mehta, J.—Mayankkumar Gopalbhai Patel, petitioner, has filed this petition with a prayer that this Court may please to quash and aside the Notification issued by the Gujarat University dated 6th October, 2004, produced at Annexure "J" and further to quash and set aside the impugned letter dated 22nd December, 2004, addressed by Principal of College to petitioner in which it was stated that in view of the decision of the Gujarat University - respondent No.2, R.G.Science College respondent No.1 can not accept the form of the examination of the petitioner.

1.1 The petitioner further prayed that this Court may direct the respondent No.1 and the respondent No.2 to continue the admission to T.Y.B.Sc. course given to the petitioner at the commencement of First Academic Term of 2004-2005. He has further prayed that the respondent No.1 be directed to accept the examination form Annexure "E" for appearing at the T.Y.B.Sc. examination to be held in March/April 2005 by respondents No.2 and 3 and send it to respondents No.2 and 3 and intimate to the petitioner the fact of it having been accepted and sent to respondent. He has further prayed that the respondents No.2 and 3 be

directed to allow him to appear at the T.Y.B.Sc. Examination to be held by them in March/April 2005 for being examined for the subject offered by him as mentioned in the examination form.

2. The petition was filed on 13th January, 2005. On 31st January, 2005, this Court issued notice on the basis that it was contended by the petitioner that before the impugned decision was taken by the University he was not heard. The said fact has been stated in the order of this Court on 31st January, 2005, which reads as follows:

"Mr.Vora, learned advocate for the petitioner stated that before the letter dated 22nd December, 2004, or even before the issuance of the notification dated 6th October, 2004, the petitioner was not informed in that behalf."

3. Thereafter the matter reached hearing before this Court on 7th February, 2005, and on that day, Mrs.V.D.Nanavati, learned advocate appears on behalf of the University and filed affidavit on behalf of respondents No.2 and 3 dated 8th February, 2005, and along with affidavit she has also annexed necessary documents in this behalf. The Principal of R.G.Shah Science College is also present and he has indicated that the College is not desire to appear independently in this behalf, and if this Court appoints any advocate as amicus curiae, the College will abide by the said decision.

4. It may be noted that the office has shown list of advocates of Legal Aid Panel. However, the Court has selected one or two advocates, but unfortunately, because due to paucity of time, the advocate who was selected by this Court could not remain present before this Court and, therefore, this Court did not pass any order for appointment of amicus curiae advocate on behalf of College. However, Principal of R.G.Shah Science College Mr.V.K.Acharya is present at the time of hearing of this petition, and he has supported the case of University.

5. It may be noted that the University has filed affidavit on 8th February, 2005, and therefore the matter has been taken up today for final disposal with consent of parties in this behalf.

6. Rule. Mrs.V.D.Nanavati, learned counsel appears and waives service of notice of rule on behalf of respondents No.2 and 3. Principal of College waives service of rule on behalf of respondent no.1.

7. The facts giving rise to this petition are as under:-

7.1 The petitioner submits that he has studied in respondent No.1 College and has passed F.Y.B.Sc. and S.Y.B.Sc. examinations held by University - respondent No.2 herein in the year 2003-2004. After passing the S.Y.B.Sc. examination, he applied for admission to T.Y.B.Sc. in respondent No.1 College and he obtained the admission to T.Y.B.Sc. course in respondent No.1 College on 30.7.2004. He has stated that he has paid necessary fees Rs.500/- and Rs.65/- for which two separate receipts were given to him on 30.7.2004.

7.2 The learned advocate for the petitioner has stated that the said fees has been collected by respondent No.1 for the first term of the Academic Year 2004-2005. The petitioner studied T.Y.B.Sc. in the first term in respondent No.1 College. For continuing his studies in the second term he has paid on 2.12.2004 Rs.485/- and Rs.235/- for which two separate receipts have been issued by the College on 2.12.2004.

7.3 In view of the same, the petitioner is studying at present in T.Y.B.Sc. course of the second term in respondent No.1 College. He has also paid up the fees on 2.12.2004 for the examination to be conducted in the month of March/April 2005. He has indicated that his examination centre is at Ahmedabad. However, in the form which he has filled, he has shown his permanent address as Village Sachodar, Taluka Himmatnagar, District Sabarkantha. He has filled the form for examination in this behalf.

7.4 It is the case of the petitioner that when he has tried to contact the concerned clerk of respondent No.1 College, on 20.12.2004 to submit his form with all the necessary documentary evidence, the clerk of the college informed him that the college cannot accept the form. The petitioner insisted on knowing the reasons for his refusal but he said nothing.

7.5 It has been further stated that the last date for accepting examination form was declared as 30.12.2004. As the said clerk refused to accept examination form from the petitioner, he was constrained to send it to respondent No.1 College by R.P.A.D. post. The said form has been received by the respondent No.1 College on 21.12.2004.

7.6 It is the case of the petitioner that on 24.12.2004 he received a letter dated 22.12.2004 from the College where it has been stated that as the examination form of the petitioner is not acceptable it is not accepted. Along with the said letter, a copy of notification issued on 6th October, 2004, issued by the University has also been attached. In the said notification of the University, a list of 120 students have been shown, out of which the name of the petitioner has been shown at Serial No.25. It has been stated that in the said list that the students have used unfair means in the examination and, therefore, they were declared as failed in the examination and they will not allow to appear in the examination and they may be allowed to appear in the examination for the Academic Year 2006.

7.7 Being aggrieved and dissatisfied with the said action, the petitioner has filed this petition before this Court.

8. Mr.Vora, learned counsel for the petitioner has stated the facts which I have set out earlier in the earlier paras of my judgment. The petitioner has appeared in the examination in March 2004, the results were declared on 22.5.2004, he got marksheet on 28.7.2004, and thereafter he saw the Principal of College and ultimately he has decided to fill up the term fee and paid the fees for the first term and thereafter on 29.11.2004 he has paid for the second term for which he

has paid on 2.12.2004. He has also contacted the College and paid necessary fees on 22.12.2004.

8.1 The learned counsel for the petitioner has stated that, once the petitioner has studied in the College, and when the second term of the University is likely to be over within short time, and at the last minute, he was informed that his examination form will not be accepted, and therefore his Academic Year will be ruined. He has stated that the reasons given by the University that the petitioner has used unfair means is not correct. He further submitted that, even if it is alleged by the University that there are some unfair means used by the petitioner, but, as the University by passage of time by which he has given marksheet and thereafter he joined first term and thereafter he joined second term and also paid the examinations fees, that all these actions, particularly, when he was debarred by the University for not permitting him to appear in the examination is clearly arbitrary, discriminatory and illegal.

8.2 In this behalf he has relied upon the judgment of the Hon''ble Apex Court in the case of Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another, particularly para 8 on page 1455 the Hon''ble Apex Court has observed like this:

"... The fault lies with the Engineering Colleges which admitted the appellants because the Principals of these Engineering Colleges must have known that the appellants were not eligible for admission and yet for the sake of capitation fee in some of the cases they granted admission to the appellants. We do not see why the appellants should suffer for the sins of the managements of these Engineering Colleges. We would therefore, notwithstanding the view taken by us in this judgment allow the appellants to continue their studies in the respective Engineering Colleges in which they were granted admission."

8.3 The learned counsel has also relied upon another judgment of the Hon''ble Apex Court in the case of Ashok Chand Singhvi Vs. University of Jodhpur and Others, particularly para 15 on page 404 the Hon''ble Apex Court has observed as under:

"It is curious that although the admission to the B.E.Degree Course of the University is governed by statutes of the University and admission rules, the said resolution of the Syndicate dated December 13, 1970 has also been kept alive. Neither the Dean nor the Vice-Chancellor was aware of the true position, namely, as to whether the said resolution had become infructuous in view of the statutes and the admission rules. A teacher-candidate is likely to be misled by the said resolution. It is the duty of the University to see that its statutes, rules and resolutions are clear and unambiguous and do not mislead bona fide candidates. The University should have revoked the said resolution in order to obviate any ambiguity in the matter of admission or included the same in the statutes as part of the admission rules."

8.4 The learned counsel has also relied upon another judgment of the Hon''ble Apex Court in the case of The State of Gujarat Vs. Patil Raghav Natha and

Others, and contended that when the power has been given the same may be exercised within a few months i.e. within a reasonable time.

8.5 On these basis, the learned advocate submitted that, even if, as per the affidavit of the University the petitioner has used unfair means, however, today in view of the fact that much time have elapsed, this Court may direct the University to allow the petitioner to appear in the examination.

9. On the other hand, on behalf of respondents No.2 and 3 Mrs.V.D.Nanavati learned advocate appears. She has contended that in this case the University has filed a detailed affidavit in this behalf.

9.1 It has been submitted in the affidavit that when the petitioner appeared for Physics Paper V on 29.3.2004 at Seat No.1556, Prof. U.C. Shah (Block Supervisor) found the petitioner in possession of a calculator with material written on it with another candidate at Seat No.1564. A report to this effect was submitted the Block Supervisor to the Sr.Supervisor. The petitioner was given an opportunity by the Senior Supervisor to give his explanation and the same was given in writing by the petitioner.

9.2 It has been further submitted that subsequently, Senior Supervisor of R.G.Shah Science College reported the matter to the Controller of Examination, Gujarat University vide letter dated 29.3.2004, stating that four students, including the petitioner, were found copying in the S.Y.B.Sc. examination conducted at the College.

9.3 It has been submitted that, through oversight, the result of the petitioner was declared, which is generally withheld in such cases of misconduct, under Ordinance 136A of the Gujarat University Ordinances and the case of the petitioner was placed before the Unfair Means Committee comprising of the Academicians. It has been further submitted that a show-cause-notice dated 29.7.2004 was sent to the petitioner by the Gujarat University informing the petitioner that he was in possession of a calculator with material written on it while appearing for examination in Physics Paper V on 29.3.2004 at seat No.1556. The petitioner was given an opportunity to appear in person on 14.8.2004 before the Unfair Means Committee to show case. He was also advised that if he is not able to appear in person on 14.8.2004, he can show cause by a written communication. However, the petitioner neither remained present before the Unfair Means Committee nor did he send any written communication.

9.4 It has been further submitted that the petitioner was given further opportunity by the University by notice dated 19.8.2004 to remain present in person on 28.8.2004 before the Unfair Means Committee to show cause. He was also advised that if he is not able to appear in person on 28.8.2004, he can show cause by a written communication. However, once again neither the petitioner remained present before the Unfair Means Committee nor did he send any written communication.

9.5 It has been further submitted that the Committee on consideration of the report submitted by the Supervisor, statement of the petitioner and the material submitted by the Supervisor was bonafide of the opinion that the petitioner adopted unfair means at the examination. The Committee, therefore, recommended that the result of the petitioner be cancelled and he should be debarred from appearing in any examination till April, 2006.

9.6 It has been further submitted that pursuant to the report of the Unfair Means Committee, the Gujarat University issued a Notification dated 6.10.2004 punishing the petitioner with F+1 punishment, i.e. debarring him from appearing in one examination till April, 2006. The said Notification dated 6.10.2004 was sent by the Gujarat University to R.G.Shah Science College, Vasna. It was brought to the notice of the College that the petitioner's case was dealt with by the Unfair Means Committee and F+1 punishment was imposed upon the petitioner.

9.7 It has been further submitted that when it was brought to the notice of the University that the petitioner is continuing his studies in T.Y.B.Sc. course at R.G.Shah Science College, the Vice Chancellor of the Gujarat University telephonically informed Incharge Principal of R.G.Science College on 17.12.2004 not to accept the examination form of the petitioner if he approached the College authorities for the same. When the petitioner approached the College authorities, his examination form was not accepted and he was informed of the decision vide letter dated 22.12.2004.

9.8 It has been further submitted that a Notification dated 31.1.2005 was issued by the Gujarat University to the effect that the result of the petitioner who appeared at seat No.1556 in S.Y.B.Sc. examination of March, 2004, who was declared as II class pass vide Notification No.25102 dated 28.5.2004 be cancelled. In view of the above mentioned facts and circumstances of the case, the petitioner has suppressed the material facts of the case and has tried to mislead and gain sympathy of this Court. The petitioner did not avail of the opportunity to show cause even when he was sent show cause notices on 29.7.2004 and 19.8.2004 by the Unfair Means Committee.

9.9 It has been further submitted that the decision has been taken bonafide and in the academic interest and the members of the Committee have no ill will towards the petitioner. The petitioner was offered opportunity to appear before the Committee in person. The Committee having regard to the report and the statement of the petitioner and incriminating material, was justified in proceeding further and make recommendation. It was further submitted that this Court may not interfere under Article 226 of the Constitution of India in the disciplinary action taken by the University.

10. It may be noted that all the documents which have been referred in para 5 namely; (i) the petitioner was in possession of a calculator with material written it with another candidate at Seat No.1564, (ii) a copy of the written statement of

the petitioner dated 29.3.2004 addressed to Senior Supervisor, (iii) a copy of report dated 29.3.2004 sent by Senior Supervisor of R.G.Shah Science College to Gujarat University, (iv) a copy of show-cause-notice dated 29.7.2004 issued to the petitioner by the Gujarat University, (v) a copy of show-cause-notice dated 19.8.2004 and (vi) a copy of the decision of the Unfair Means Committee and a Notification dated 6.10.2004 issued by the University and the copy of the Notification dated 31.1.2005 have also been annexed along with the affidavit which this Court perused the same in this behalf. So the affidavit of the University has been supported by the necessary documents.

10A. The learned counsel for the respondents has also relied upon the judgment of the Hon'ble Apex Court in the case of Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another, particularly para 7 on page 1454 the Apex Court has observed as under:

"... It is for each University to decide the question of equivalence and it would not be right for the Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any ex-pertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University."

11. The learned counsel for the respondents has relied upon the Division Bench judgment of this Court in the case of Gujarat Secondary Education Board and Another Vs. Sunny Dharampalsingh Chaudhary Minor through his father Dharampalsingh Chaudhary and Another, (Coram: D.M.Dharmadhikari, C.J. and C.K.Thakkar, J. (as they were then)). The Division Bench has relied upon the judgment of the Hon'ble Apex Court in the case of Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others, , Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others, Central Board of Secondary Education Vs. Vineeta Mahajan and another reported in 1994(1) GLH 71 and they have considered the facts of the case and on page 204 the Hon'ble Court has observed like this:

"... The obvious reason is that the authorities alone know the methodology of the students and the atmosphere in which such misconducts are committed by the students. Findings reached on facts by such domestic forums would not be interfered with by the Court merely on the ground of errors of fact. The writ jurisdiction is supervisory in nature, and a Court exercising the same is not to act as an appellate authority and would not, ordinarily, review findings of fact, for, if it were to do so, these authorities would become merely transmitting agencies of evidence to the Court, and such of the advantage of administrative adjudication will be lost. Some degree of control on adjudicating authorities is, of course, necessary, but only to check their arbitrariness. A finding of fact reached by a domestic body can be quashed by the Court only if it is based on "no evidence"

or is completely unsupported by evidence. Such is not the case here."

11.A The Division Bench has also considered the Principles of Administrative Law by M.P.Jain and S.N.Jain, Fourth Edition at pages 545 and 546 and also the judgment of United States Supreme Court in some para and thereafter the Division Bench has allowed the appeals preferred by the Board and set aside the order of the learned Single Judge in this behalf.

11.1 The learned counsel for the respondents has also relied upon another Division Bench judgment of this Court in the case of Sardar Patel University Vs. Minal R.Jogi and another reported in 2000(2) GLH 199 (Coram: D.M.Dharmadhikari, CJ. and B.C.Patel, J. (as they were then)). The Hon"ble Court in para 9 on page 204 has observed like this:

"Considering the principles enunciated in the two aforesaid judgments as also the judgment of the Apex Court in the case of Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others, and the decision of this Court in the case of Siddharth Mohanlal Sharma Vs. South Gujarat University, and the decision dated 14.2.2000 of the Division Bench of this Court in L.P.A. No.6 of 2000 and others which are considered in the aforesaid decisions, it is difficult to accept the contentions raised by the petitioner that the benefit of doubt ought to have been granted and the submission that interference by this Court is not called for as the material was found on the ruler which was inscribed subsequently in the spare time and it was not used for the purpose of answering the questions, cannot be accepted."

11.2 The learned counsel has also relied upon another Division Bench judgment of this Court in the case of Sanjay Mukundmi Desai Vs. The Registrar, South Gujarat University, Surat, The Division Bench in para 6 on page 50 has observed like this:

"... As far as the facts of the present case are concerned, there is ample evidence to support the order passed by the University. Apart from the confession made by the appellant, we have the statement of the supervisor and the Disciplinary Committee had all materials before it, before it recommended the punishment to the Syndicate concerned."

12. It may be noted that Mr.Vora, learned advocate for the petitioner, has also stated that, in this case there is a violation of principles of natural justice as the petitioner has not been heard. The learned counsel for the respondents has submitted that, in this case, the petitioner has given his own address at Himmatnagar, District Sabarkantha and, therefore, the University had issued notice to the petitioner on 29.7.2004 as well as on 19.8.2004 at the Himmatnagar address which was given by the petitioner as permanent address which has been admitted and received by the petitioner at the Himmatnagar address. So the contention of the Mr.Vora is that as the notices were served at Himmatnagar address whereas he is permanently residing at Ahmedabad, so he was not aware about the same.

13. I have examined the facts and circumstances of the case. I am of the view that, once the petitioner himself has given address of Himmatnagar, Dist.Sabarkantha, and in the oral submissions, I have inquired from Mr.Vora, learned advocate for the petitioner that who is residing at Himmatnagar, he has stated that the petitioner's uncle is residing at Himmatnagar. In my view, when the petitioner's uncle have received the notices, he might have informed about the said aspect to the petitioner, and to that extent the petitioner was deemed to aware about the said notices. In this facts and circumstances of the case, particularly, when the petitioner himself has given his address of Himmatnagar, District Sabarkantha, the University had issued notice at the address of Himmatnagar and, therefore, I do not accept the contention of Mr.Vora, learned advocate for the petitioner that the action taken by the University is ex-parte or without hearing. In my view adequate opportunity has been given to the petitioner but the petitioner has not availed the same. There is no question of violation of rules of natural justice.

14. As regards facts of the case is concerned, I have considered the averments made in the affidavit, and in my view, the authority has found that the petitioner has used unfair means by using calculator with material written on it with another candidate at Seat No.1564. The learned counsel for the respondents has shown the said calculator to me, and on the back side of the calculator, it has been written extensively by the petitioner. The learned counsel for the University has submitted that the University has conducted inquiry as contemplated under the Universities Act, rules and regulations. It is true that though the University ought to have suspend the results of the examination, but through over sight the examination of the results have been declared as at the subsequent time large number of students were caught in the unfair trade means and, therefore, the University has to conduct inquiry for about more than 200 students and, therefore, the notices have been issued to the petitioner at the address shown by him at Himmatnagar address. So the University is perfectly right to issue notice at Himmatnagar and the fault lies with the petitioner to reply to the said show-cause-notice.

15. Learned counsel for the respondents has further submitted that as the petitioner failed and neglect to appear in the Unfair Means Committee, it was incumbent upon to the University to take necessary decision in this behalf. She has also invited my attention to the documents which have been annexed from time to time, and in fact, the fact that the petitioner has written something on the calculator and the authority has invited attention to this fact for which the petitioner has simply denied this aspect. However, the University has prepared the reports by the Observer and the same was put before the Committee and the Committee has taken the decision in this behalf.

16. It has also made it clear from the affidavit, particularly para 15 that the said decision has been taken bonafide and in the academic interest. It was also stated that the Committee having regard to the report and the statement of the

petitioner and incriminating material was justified in proceeding further and make recommendation.

17. The learned counsel submitted that in view of the decisions cited by her, this Court may not interfere with the decision taken by the University in this behalf.

18. It is the case of the respondents that the petitioner has used unfair means in the examination and, therefore, this Court may not direct the University to allow the petitioner in the examination. There is no question of showing any sympathy to the petitioner as the decision is taken by the committee and the authority has complied with all the rules and regulations in this behalf.

19. On behalf of the College, Principal Shri V.K.Acharya is also present before this Court. He has stated that, when he received the information from the University, immediately he has taken the action and he has not permitted the petitioner to appear in the examination.

CONCLUSION:

20. It is no doubt true that earlier the College has allowed the petitioner to fill up the form in the second term and also allowed him to fill up the examination form, but from the record, it appears that, the College was not fully aware about this fact and, therefore, I am of the view that the College has acted fairly and bonafidely, and there is no fault lies with the College in this behalf looking to the large number of students. However, as soon as they received the telephonically message from the University, they stopped the petitioner and they had not accepted form of the petitioner and, therefore, I am of the view that the conduct of the College and University is also fair and legal.

21. I have considered the facts and circumstances of the case. I have seen the original calculator which was produced before me, and in that calculator the student has written so many things in this behalf. The calculator is big enough on which several things have been written by the petitioner. Once the said calculator has been found from the possession of petitioner in which so many things written, it is presumed that he has used the same and, therefore, he has found into dereliction of his duties in the examination.

21(A) In this matter, after perusing the affidavit of the University viz. the expert body comes to the conclusion that the petitioner has indulged into copying answer book from the material written on the calculator and has come to a conclusion that the petitioner has committed mal practice, the same should not be ordinarily interfered with by a court of law. The University has filed affidavit, and from that affidavit, inquiry conducted by the University is fair and it affords the candidate adequate opportunity to defend himself and this Court under Articles 226 and 227 of the Constitution of India ought not to examine the matter with the same strictness ordinarily in civil matters in this behalf.

21(B) In this case, as per the examination rules, the petitioner is allowed to carry calculator in the examination room. However, by writing some answers on

the calculator petitioner has committed fraud with the examination system and with the College and the University. In this case, the University has established that fraud is proved so it will deprive the petitioner from all advantages and benefits obtained thereby in this behalf. When this Court examining the action of the University, in such a situation, there is no question of raising any equity. Once the fraud is detected, the relief on equitable grounds misplaced.

21(C) In this case the student has been held guilty of copying in the examination. However, the University has issued notice to his permanent address, which has been given by the petitioner. The petitioner failed to appear before the University authority. So in the cases of copying in the examination, once the University has issued notices to the petitioner at the permanent address, the principles of natural justice have been fully complied with.

21(D) I have considered the facts and circumstances of the case. To have my conscience clear, I have requested learned advocate for the University to produce original calculator which was seized by the University. The same is produced before this Court. I have carefully and minutely seen the said calculator and on scrutiny of the same, I have seen that the petitioner have extensively written on the calculator.

21(E) In my view when the findings of the University are based on direct evidence, such findings cannot be interfered in writ petition. In this case the petitioner has adopted unfair means in a competitive examination, he will have to bear the consequences of the same. From this fact it is clear that the seized calculator in which the petitioner has written has been seized by the University from the floor of the examination from the petitioner. These facts are undisputed. The calculator seized was directly related to petitioner and with examination.

21(F) In my view the petitioner by using unfair means in the examination has committed a fraud and, therefore, no sympathy can be shown towards the petitioner.

21(G) What is meant by fraud:

Section 17 of the Indian Contract Act 1872 defines fraud as applicable to contracts. But fraud has not been defined exhaustively in any statute.

"Courts have always refused to define fraud exhaustively, as it is as hydra-headed as the devices of human ingenuity. Every unfair means used to obtain an unconscionable advantage over another is spoken of as fraud."

Rajah of Ramnad v. Arunachalam ILR (1915) Mad 321 at 344 ; AIR 1916 Mad 350 : quoted and followed in Caprihans v. Registrar 75 CWN 641 at 660 Re: From the Book "Law of Trade Marks and Passing Off" by P.Narayanan, Sixth Edition, page 899}. 21(H) A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. No court in this land will allow a person to keep an advantage which he has obtained by fraud. Once fraud is proved it vitiates judgments, contracts and all transactions

whatsoever.

22. I have considered the facts and circumstances of the case. I do not able to appreciate the contention of the petitioner and I fully accept the contention of the respondents. Once the petitioner was found by unfair means in the examination, the decision taken by the University being an expert body, this Court is not prepared to interfere with the said decision, as the said decision is taken bonafidely and the University has followed the rules and regulations in this behalf. Hence, the petition is dismissed. Rule is discharged with no order as to costs.