

(1993) 05 GUJ CK 0001
In the Gujarat High Court

Tejani Alpesh B. and Others

APPELLANT

Vs

Saurashtra University

RESPONDENT

Date of Decision : 12-05-1993

Acts Referred:

Citation : (1994) 1 GLR 81

Hon'ble Judges : R.K. Abichandani, J

Bench : Single Bench

Judgement

R.K. Abichandani, J.—The petitioners seek a writ of mandamus or any other appropriate writ or direction on the respondent-Saurashtra University for restraining the University from holding the re-examination for the papers of Accountancy and Business Administration of the second year B.Com. on the ground that there was leakage of these two papers before examinations were held on 22-3-1993 and 23-3-1993 for these two papers. It appears from the material on record and the submissions made on behalf of the petitioners that there was a leakage of these two papers for which examinations were held on 22-3-1993 and 23-3-1993. On the leakage being detected, the University syndicate by its resolution dated 10-4-1993 cancelled the said two examinations and put two options to the students. First option was that those who did not want to appear at the re-examination for these two papers could opt for marks being given on the basis of average marks secured by them in the papers in which they had appeared and in respect of which there was no leakage. It appears that there were five such subjects for which the students had appeared and there was no leakage of the examination papers. The other option was that students who were willing to appear at the re-examination may appear at such examination for these two papers, for which sufficient time was given to the students to prepare themselves and the examinations are scheduled to be held on 14-5-1993 and 15-5-1993 for these two subjects.

2. It was contended on behalf of the petitioners by the learned Advocate Ms. S.K. Mandavia that there was no fault on the part of the students and the leakage of

papers was due to the fault on the part of the employees of the University for which students should not be penalised and the students also have appeared in those two subjects should be examined and assigned marks on the basis of their performance. It was also submitted that leakage of papers was only at Rajkot and not at other centers. It was finally submitted that the action of the University was arbitrary and since no hearing was given before taking such action, it is violative of the provisions of Article 14 of the Constitution.

2.1. Merely because leakage of examination papers was detected at Rajkot, it cannot be said that there was no leakage of the examination papers in other centers. In these days of fast communication over telephone and STD facility, it cannot be said that elsewhere students might not have come to know about the examination papers which had leaked out on the previous night. The students have been given option and the option by itself appears to be reasonable. Those who desire to appear at the examination can do so and those who do not want to appear have the option of getting average marks that they may obtain in other subjects for which they have been examined. This is a reasonable solution under the circumstances "of the case and cannot be faulted with. There is absolutely no element of arbitrariness in such decision.

3. As regards personal hearing to students or their representatives, in view of the nature of the happenings that took place, it would be impossible to give such hearing to the students nor would it be necessary to do so. When admittedly, the examination papers had leaked out, the University was justified in cancelling the examinations of the subjects and directing re-examination to be held for those who intended to appear giving an option to others for opting for average marks. This would entirely be a matter of policy which requires no personal hearing to be given. There is, therefore, no substance in the contentions raised on behalf of the petitioners. The petition is, therefore, rejected.