

IN THE HIGH COURT OF GUJARAT AT AHMADABAD

(PLD) District: Ahmadabad  
*Writ Application* no. Of 2021

In the matter under Articles 14, 19,  
21, 226 and 227 of the Constitution of  
India;

AND

In the matter being the student's  
matter regarding the cancellation of  
the examination ;

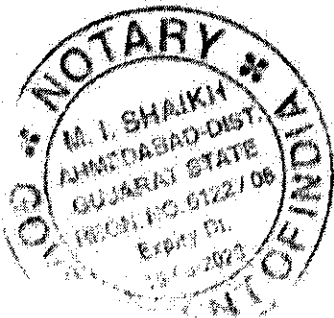
AND

In the matter between;

Razaiwala Mohammed Hammad Hussain

... Petitioner

VERSUS



(1) Nirma University,  
To be served through,  
Director and dean Institute of law,  
L block, Nirma University,  
Sarkhej-Gandhinagar Highway,  
Gota, Ahmedabad, 382481.

(2) The State of Gujarat,  
To be served through,  
Principal Secretary,  
Secretariat at Gandhinagar.

...Respondents

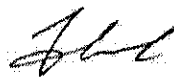
To,

The Hon'ble Chief Justice and  
Other Hon'ble companion Judges of the  
Hon'ble High Court of Gujarat.

The humble petition of the  
Petitioner abovenamed.

**MOST RESPECTFULLY SHOWETH THAT**

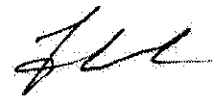
1. The petitioner is constrained to file the present petition under Articles 226 and 227 of the Constitution of India to seek interference and indulgence against the exhaustive pedagogy



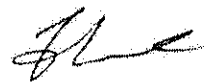
adopted by respondents with regards to the overall evaluation scheme amidst the current situation due to ongoing Corona virus Pandemic and thereby to seek cancellation of the examinations scheduled to start on 08.05.2021 for the viva component and 20 May, 2021 for final written examination.

2. Brief facts of the case are as follows:

2.1 The Petitioner states and submits that the Respondent no.1 is an institute registered under Section 2 (f) of the University Grant Commission Act, 1956 under Respondent no.2 University. It is submitted that the semester for the respective batches of 2<sup>nd</sup> year (Semester 4), 3<sup>rd</sup> year (Semester 6) and 4<sup>th</sup> year (Semester 8) commenced on 11<sup>th</sup> of January 2021. The notification of commencement of semester communicated via email is annexed hereto and marked as Annexure A to this petition. The said semester is likely to end on 31<sup>st</sup> of June 2021 including the internship which was compulsory for the students and that they would be evaluated and graded. During the ongoing above mentioned respective semesters the students were

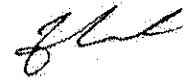


evaluated via multiple choice questions on different dates, submitting research projects for different subjects, class discussions, research notes, presentations on various topics etc. Apart from the evaluations the students also attended regular classes which would generally begin at 9:00 a.m. and would end at 3:00 p.m. or 4:00 pm in the evening via online medium upon cisco webex platform. Furthermore the students also attended the lectures of ITM (International Teaching Month) from 30/01/2021 to 04/03/2021 during which some of the classes began at early morning 8:20 am and ended at 9:00 pm. The time table of the respective semesters, the list of internal evaluation and the curriculum of the ITM (International Training Month) are annexed hereto and marked as 'Annexure B' to this petition. Furthermore the respondent university is to conduct viva voce and semester end examinations. The viva voce is to be conducted from 8<sup>th</sup> of May 2021 for second and third year students and 10<sup>th</sup> of May 2021 for fourth year students and would end on 18<sup>th</sup> of

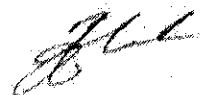


May 2021. The second year students would have their MCQ (Multiple Choice Questions test) on 19<sup>th</sup> of May 2021 and the End Semester examination for the respective batches would begin on 20<sup>th</sup> of May 2021. Thereafter the compulsory internships are scheduled by the respondent institute for the month of June and July. The abovementioned curriculum is annexed hereto and marked as 'Annexure C' to this petition. It is further submitted that the respondent institute via circulating a Google form conducted a survey in order to seek the opinion of the students would like to opt for Multiple choice questions test with stringent conditions or viva voce with liberal conditions in which 70% students opted for Multiple Choice Questions however the respondent university took the decision of conducting viva voce. The electronic copy of the said survey is annexed hereto and marked as 'Annexure D' Collectively to this petition.

- 2.2 The petitioner states that the petitioner students of the respondent no1 institute followed and obeyed all the



requisites for evaluation put forth by the respondent university and institute. However due to sudden surge of the corona virus cases and many of the petitioners students or their family members suffering from the disease the students including the students on whose behalf this petition is filed, conveyed their grievance to the respondent institute in lieu of which the meeting with the class representatives was conducted in which the respondent did not accept any of the suggestions by which the students demanded relaxation. Thereafter on 2<sup>nd</sup> of May 2021, many petitioner students via official email, communicated their grievances and demanded for relaxation which included cancellation of viva and end semester examination to which the respondent university did not provide any satisfactory relief with respect to the primary issue of conduction of viva and end semester examination, relaxation of NT/IF fees etc. The copy of the mail sent by the students and responded by the respondent institute are annexed hereto and marked as 'Annexure E' Collectively to this petition.



2.3 The petitioner states that amidst the rapid surge in the corona virus cases the students and their relatives have suffered which can be accessed as per the survey conducted by the students in which 274 students or their relatives were tested positive for Corona virus. The results of the said survey conducted on 22<sup>nd</sup> of April 2021 are annexed hereto and marked as 'Annexure F' to this petition.

2.4 It is further submitted that it is known from the reliable sources that in the initial day of month of May, 2021 4 lakh cases per day were reported due to which the condition of the students of the respondent university as well as the faculties suffered more severely due to the ongoing pandemic and therefore the upon humanitarian grounds the respondent university should have shown sympathy to towards the students by accepting the demands made by the petitioner students.

2.5 It is submitted that various other universities including the NLU's (National Law Universities) have provided relaxation



to their respective students amidst the rapid rise in the corona virus cases. Therefore the respondent university could provide the reliefs demanded by the petitioner students.

2.6 It is further submitted that due to the hardships faced by the petitioner students due to lack of medical facilities and utilities and death of the close relatives, it is inhumane to force or make them oblige to give viva voce and end semester examinations.

2.7 The petitioner states that in the current situation it will be difficult for almost all the students to appear in the examination and non-appearance will invite an NT, a sort of penalty to clear that particular subject in the next examination and such NT per subject cost Rs.9,000/-. In view of the same such NT may cost Rs.81,000/- to a student to clear the examination during the coming examination. Moreover as per the policies of the respondent university such a student would face one year detention. Further the detention would be carry forwarded if respondent would





have more than three NT's or IF's in total. It is submitted that petitioner students are not only suffering physically but also financially. The said policies of the respondent university are annexed hereto and marked as 'Annexure G' to this petition.

- 2.8 It is submitted that by the petitioner that such inhumane and pressurizing behavior of the respondent university could lead some of the students to take wrongful steps of self harming or committing suicides.
- 2.9 The petitioner states and submits that he and other students have made representation to the concerned authorities in this regard, however, all representation have proved futile.
- 2.10 In the above premises petitioners students are reasonably seeking the cancellation of viva voce and Semester End examination with a direction to the university to evaluate the students by their performances through the abilities shown during the entire semester as stated above.

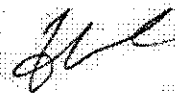


3. In view of the above premises the petitioner is constrained to approach this Hon'ble Court and seek to prefer present petition on the following main amongst other grounds, which may be urged and argued at the time of hearing and which are without prejudice to one another.

**GROUND**

3.1 It is submitted that the act of respondent university is abrogating the fundamental rights promised to them under constitution by expecting them to appear for exams and viva voce in spite of the fact that many students or their relatives are suffering from corona virus or mourning the deaths of their loved ones.

3.2 It is submitted that exemption given by the respondent university to appear for viva voce till 19<sup>th</sup> of May is unreasonable as it is unlikely that the students suffering from corona virus would heal or other students would not contract the disease. Furthermore it is an unjust treatment given to the faculties of the respondent universities as well.

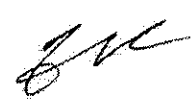


- 3.3 It is further submitted that the petitioner is under intimidation that any student of the respondent university might commit suicide due to the inhumane attitude of the respondent university.
- 3.4 That the respondent university ought not to have pressurized the students to appear in the normal mode of examination only. Instead, the respondent university may have adopted the relaxation policies adopted by other national law universities of the conclusion due to the prevailing special circumstance.
4. The petitioner most respectfully states and submits that in view of the aforementioned facts and circumstances, particularly as the petitioner has extremely good prima facie case and that the present petition can be granted on the humanitarian grounds. Moreover, if the present petition is rejected than the students would be in danger in terms of health or career whereas the grant of current petition would aid the students of the respondent university with respect to their health and career.



13

5. The petitioner most respectfully states and submits that the petitioner have not preferred any other application on the subject matter of present application in any other Court of Law in India, including the Hon'ble Supreme Court of India, save and except present petition before this Hon'ble Court.
6. The petitioner most respectfully states and submits that the petitioner have no other equally efficacious alternative remedy with him, save and except by way of invoking the extra-ordinary jurisdiction of this Hon'ble Court under Articles 226 and 227 of the Constitution of India, by way of preferring present petition.
7. The petitioner most respectfully states and submits that the petitioner most humbly prays that this Hon'ble Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus, a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus, or any other appropriate writ, order or direction and thereby:
- (A) THIS HON'BLE COURT MAY BE PLEASED TO issue a writ of mandamus or any other appropriate writ/order/ direction



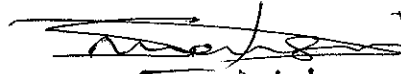


15

to the respondent No 1 to cancel the viva voce and the end semester examination and to evaluate the petitioner student on the basis of submissions/evaluations of the entire semester.

- (B) THIS HON'BLE COURT MAY BE PLEASED TO order the respondent university to cancel the NT/IF fees if any of the student fails as per the evaluations conducted by the respondent university.
- (C) THIS HON'BLE COURT MAY BE PLEASED TO order the respondent university give the window to the students who have failed to submit or give internal components and that no student of the respondent university should be detained in the current academic year/semester.
- (D) THIS HON'BLE COURT MAY BE PLEASED TO pass any appropriate order in favor of the petitioners and respondent students as it may deem fit to this Hon'ble Court.

And for this act of kindness and justice, the Petitioners shall, as in duty bound for ever pray.



DRAWN & FILED BY

Mr. Sabir D Mansuri

Advocate for the petitioner

Place: Ahmedabad

Date: 05.05.2021

