

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7690 of 2022**

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MEHUL SURESHKUMAR CHAMPANERIA

Versus

VEER NARMAD SOUTH GUJARAT UNIVERSITY THROUGH THE
SECRETARY

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Appearance:

for the Petitioner(s) No. 1

MR NK MAJMUDAR(430) for the Petitioner(s) No. 1

BHAGIRATH N PATEL(9016) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 03/07/2023****ORAL ORDER**

1. Heard learned Advocate Mr. N.K. Majmudar for the petitioner and learned Advocate Mr. Bhagirath N. Patel for the respondent.

2. By way of this petition, the petitioner has inter alia challenged the decision of the respondent-University of cancelling the entire result of LLB Examination for all semesters of the present petitioner.

3. Learned Advocate Mr. N.K.Majmudar would submit that the present petitioners had done his graduation from one Shridhar University, Pilani, Rajasthan, and whereas the petitioner has submitted his statement of grades to the respondent-University for being admitted to the LLB Course and whereas vide a communication dated 11.06.2015, the respondent had given its provisional eligibility certificate and whereafter, the petitioner had also

been given eligibility certificate to pursue the LLB Course at D.D. Law College, Navsari. Learned Advocate would submit that thereafter, on basis of certain newspapers articles as could be seen from the Resolution No. 116 of the Syndicate of the University, dated 31.12.2021, it would appear that the University had come to a conclusion that the certificates of Shridhar University which had been submitted by the petitioner for getting admission in the LLB Course were fake, therefore the entire results LLB Course of the petitioner had been set aside. Learned Advocate in this regard would rely upon the Veer Narmad South Gujarat University Act, more particularly Section 47 thereof, whereby it is inter alia envisaged that in case of removal of membership of university or withdrawal of degree or diploma, the person concerned is to be given an opportunity to be heard in his defense in the manner prescribed by the Statutes. Learned Advocate Mr. Majmudar would submit that no such opportunity having been granted, the action on the part of the respondent of cancelling the marks awarded to the present petitioner in all semesters of the LLB Course, may be interfered with by this Court.

4. As against the same, learned Advocate Mr. Bhagirath Patel for the respondent-University would submit that the present petitioner has been part of an elaborate fraud and whereas no indulgence deserves to be given to the petitioner. Learned Advocate Mr. Patel would rely upon the affidavit-in-reply filed by the respondent-University and would submit that the

petitioner had been given admission to LLB Course on basis of mark-sheet of graduation in Bachelor of Arts of Shridhar University, Pilani, Rajasthan, and whereas the petitioner had completed his LLB in the year 2018, and whereas after completion of his LLB, when the petitioner applied for Sanad from the Bar Council of Gujarat, a verification was carried out by the Bar Council of Gujarat and upon such verification, it had come to the knowledge of the Bar Council of Gujarat that the petitioner's graduation mark-sheets were forged and accordingly an FIR came to be filed against the petitioner. Learned Advocate would submit that it is at that stage that the respondent-University become aware about the fraud perpetrated by the petitioner. Learned Advocate would submit that the respondent-University had thereafter contacted the Shridhar University and whereas vide a communication dated 02.06.2021, the Shridhar University had inter alia informed the respondent-University that the petitioner was not their student and that the documents attached i.e. the mark-sheets were not genuine. Learned Advocate would submit that considering the nature of fraud perpetrated by the petitioner, more particularly since the petitioner did not fulfill the requirement for even joining the LLB Course, therefore the respondent-University had cancelled the mark-sheets of the petitioner for the LLB Course. Learned Advocate would submit that since the petitioner was a part of an elaborate fraud and since the principle with regard to fraud

being well-settled that fraud vitiates everything, in the instance case even if a chance of hearing were to be given to the petitioner since no material could have been submitted by the petitioner in view of the specific reply by the Shridhar University, and therefore an opportunity of hearing being an empty formality, this Court may not grant any indulgence to the present petitioner.

4.1 Learned Advocate Mr. Patel would further draw the attention of this Court to Section 47 of the Veer Narmad South Gujarat University Act, and would submit that the protection i.e. with regard to no action being taken under the Section, would be available to the student concerned, only if the requirements of the said Section have been fulfilled. Learned Advocate would submit that if a person has been convicted by a court of law of any offence which in the opinion of the Syndicate and the Senate, is a serious offence involving moral turpitude or if the student concerned has been guilty of scandalous conduct, the respondent-University before revoking the degree, is required to hear the student in his defense. Learned Advocate would submit that it is only in the eventualities noted as hereinabove, that an opportunity of hearing is given to the concerned student and whereas according to learned Advocate, the said benefit would not enure in favour of the petitioner, more particularly since the petitioner not falling in the category as enumerated in the said Section. Learned Advocate Mr. Patel would reiterate that since the petitioner had perpetrated a fraud and based

upon the fraud the petitioner had acquired the degree of law, therefore the petitioner does not deserve any indulgence whatsoever from this Court.

5. Heard learned Advocates for the parties, who have not submitted anything else.

6. It is required to be noted that two specific contentions have been raised by the learned Advocate for the petitioner namely (i) that the petitioner's mark-sheets having been examined by the respondent-University while giving him provisional eligibility certificate/eligibility certificate, the respondent-University ought not to be permitted to turn back and question the veracity of the said documents; and (ii) on the aspect of protection being provided under Section 47 of the Veer Narmad South Gujarat University Act.

7. In this regard, in the considered opinion of this Court, as far as the first issue is concerned, the petitioner is attempting to take advantage of his own wrong. In essence, in the considered opinion of this Court, the petitioner is submitting that since the respondent-University while giving admission could not detect the fraud perpetrated by the petitioner, therefore at a later stage, the University ought not to be permitted to rectify their mistake. In the considered opinion of this Court, the proposition as contended by the learned Advocate to state the least is absurd. The

petitioner himself was guilty of submitting fraudulent documents and whereas in case, the fraudulent documents were verified by the respondent-University and treated as genuine documents, the benefit had ultimately been taken by the petitioner himself. It is another matter that at a later stage since the fraud had come in light, the respondent-University had decided to rectify their mistake and whereas in the considered opinion of this Court, the respondent-University would not in any manner be liable for not detecting the fraud perpetrated by the petitioner and on the other hand the petitioner could not be permitted to take advantage of the fraud in the first place.

8. Insofar as Section 47 of the Veer Narmad South Gujarat University Act is concerned, for appreciating the issue, the same is reproduced hereinbelow for benefit.

"47. (1) The Chancellor may, on the recommendation of the Syndicate and of the Senate supported by a majority of not less than two-thirds of the members of each body present at its meeting, such majority comprising not less than one-half of the members of each body, remove the name of any person from the register of graduates or withdraw from any person a diploma or degree if he has been convicted by a court of law of any offence which in the opinion of the Syndicate and the Senate, is a serious offence involving moral turpitude or if has been guilty of scandalous conduct.

(2) No action under this section shall be taken unless the person concerned is given an opportunity to be heard in his defence in the manner prescribed by the Statutes."

8.1 Upon a bare perusal of Section 47, this Court is in agreement with the learned Advocate for the respondent that the protection under the said Section is available only in case where the student concerned, is facing withdrawal of degree or diploma on the ground of being convicted by a court of law of any offence which in the opinion of the Syndicate or the Senate, is a serious offence involving moral turpitude or if he has been guilty of scandalous conduct. In the considered opinion of this Court, such a protection is given in order to ensure that every conviction, does not automatically resulting in a student having his degree or diploma being revoked by the University and whereas in the considered opinion of this Court, such protection envisaged in the said Section, would not take into its ambit the case of a student like the present petitioner, who had got admission in the LLB Course by perpetrating a fraud.

9. Furthermore, in the considered opinion of this Court, even otherwise, before any adverse action is to be taken against any person by the State, or its instrumentalities, it is envisaged that such organization would adhere to the principle of natural justice, but in cases like the present, more particularly where the petitioner even in the petition or in the affidavit-in-rejoinder has not submitted any document from the University in question i.e. Shridhar University certifying that the petitioner had studied with the University and the mark lists submitted by the petitioner were in fact

genuine, in the considered opinion of this Court, the purpose of giving an opportunity of hearing would be nothing but an empty formality, more particularly the Shridhar University having already in the first place informed the respondent-University about the fraudulent nature of the mark-sheets submitted by the present petitioner.

10. Having regard to the discussion hereinabove, in the considered opinion of this Court, the petition being meritless, the prayers sought for by the petitioner cannot be granted and the petition is hereby rejected.

11. It is clarified that the these observations have been made by this Court for the purpose of the present petition, and whereas the Court considering the trial of the present petitioner as regards the FIR filed against him shall decide the same upon appreciation of evidence in accordance with law.

BDSONGARA

(NIKHIL S. KARIEL,J)