

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

DISTRICT: AHMEDABAD

EXTRAORDINARY ORIGINAL JURISDICTION

WRIT PETITION [PIL] NO. OF 2020

**In Re:** Adverse, Arbitrary and Unlawful Orders of various Universities, creating inequality and chaos in the educational system and thereby putting the Safety and Welfare of students, at stake.

PRIYANK VINODBHAI PANDYA

AND ANOTHER

...Petitioners

**Versus**

UNION OF INDIA &amp; OTHERS

...Respondents

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Mohammed K. Vohra  
Advocate for the Petitioner

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**SYNOPSIS**

In the present situation at hand i.e. The Global Pandemic – Corona Virus (COVID-19) whereby the Failure of Authorities in appreciating and implementing the Orders/Guidelines given by Ministry of Home Affairs (MHA) and thereby passing of Adverse, Arbitrary and unlawful Orders/Notifications/Circulars by various Universities, declaring dates and procedure for conducting examination in regards to the Contrary and Vague Guidelines of University Grants Commission (UGC) which has created inequality and chaos in the educational system and is jeopardizing the Safety and Welfare of the students and society at large.

The Adverse, Arbitrary and unlawful Orders/Notifications/Circulars of various Universities, declaring dates and procedure for conducting examination or delaying the same is increasing grievances of the students of various Universities and the authorities have failed to solve the same even after such grievances are reported to the universities and other concerned authorities. Therefore, it is imperative to give proper guidelines to them taking the present scenario in consideration to avoid further Chaos and to secure the safety and interest of students as well as the public at large. Failing to do so will not only create inequality and havoc in the students but will also boost the spread of Global Pandemic of Corona Virus (COVID-19) to a great extent which will result into severe breakdown in our Country.

**Hence, the present petition.**

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Mohammed K. Vohra  
Advocate for the Petitioner

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DISTRICT: AHMEDABAD

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**In Re:** Adverse, Arbitrary and Unlawful Orders of various Universities, creating inequality and chaos in the educational system and thereby putting the Safety and Welfare of students, at stake.

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

AND

In the matter of Disaster Management Act, 2005;

AND

In the matter of PIL as per High Court Rules;

AND

In the Matter Between;

1. PRIYANK VINODBHAI PANDYA

2. HARSH GHANSHYAMBHAI PATADIA

...Petitioners

**Versus**

**Union of India**

1. Notice through Secretary,

National Disaster Management Authority, Government of India,  
NDMA Bhawan, A-1, Safdarjung Enclave, New Delhi - 110029.

2. Notice through Secretary,

Ministry of Home Affairs, Government of India,  
North Block, New Delhi – 110001.

3. Notice through Chairperson, National Executive Committee,

Disaster Management Division, Ministry of Home Affairs,  
Government of India, 3rd Floor, NDCC-II Building,  
Jai Singh Road, New Delhi - 110001.

4. Notice through Secretary,

Ministry of Health and Family Welfare, Government of India,  
Nirman Bhavan, New Delhi - 110011.

5. Notice through Secretary,

Ministry of Human Resource Development, Government of India,  
Shastri Bhawan, New Delhi – 110001.

6. University Grants Commission,

Notice through Secretary, University Grants Commission (UGC),

Government of India, Bahadur Shah Zafar Marg,  
New Delhi – 110002.

**State of Gujarat**

7. Notice through Chief Secretary,

Personnel Division, General Administration Department,  
Government of Gujarat, New Sachivalay, Gandhinagar, Gujarat.

8. Notice through Secretary,

Ministry of Home Affairs, Government of Gujarat,  
New Sachivalay, Gandhinagar, Gujarat.

9. Notice through Secretary,

Ministry of Health and Family Welfare, Government of Gujarat,  
Sardar Patel Bhavan, Sachivalaya, Gandhinagar, Gujarat.

10. Notice through Principal Secretary,

Education Department, Government of Gujarat,  
Block No. 5, 8<sup>th</sup> Floor, Sachivalaya, Gandhinagar, Gujarat.

...Respondents

To,

The Hon'ble the Chief Justice and  
other Hon'ble Judges of the High  
Court of Gujarat at Ahmedabad

The humble application of the Applicant above named.

MOST RESPECTFULLY SHEWETH:

1. The present petition under Article 226 of the Constitution of India is being filed by way of public interest litigation and petitioners have no personal interest in the said litigation and the present petition is not guided by self-gain or for gain of any other person/institution/body and that there is no oblique motive other than that of public interest in filing this petition. The present petition is filed in the interest of Students and public at large.
  
2. The Petitioners are Citizens of India, and are practicing Advocates in this Hon'ble High Court of Gujarat and thereby espousing a common cause relating to the students of our country are constrained to approach this Hon'ble Court by way of Public interest litigation for the welfare of the student fraternity and thereby constraining the spread of the Global Pandemic of Corona Virus (COVID-19).
  - 2.1 The Petitioner no. 1 herein has earlier filed a public interest petition vide Writ Petition (PIL) No. 68 of 2020 on the issue of Arbitrary order passed by the Hon'ble Commissioner of Ahmedabad Municipal Corporation, declaring Complete Lockdown which amount to lot of hardships for common man and downtrodden class of the society. This Hon'ble Court disposed the matter on 13<sup>th</sup> May 2020 considering the order passed by state authorities dated 12<sup>th</sup> May 2020 coming out with the arrangements of the supply of all the essential needs including vegetables, fruits, groceries, etc with effect from 15<sup>th</sup> May 2020.

3. That the petitioners are filing the present petition purely in Public Interest on their own and not at the instance of any other person or organization. The present litigation is being done pro-bono and all costs of the present litigation are being borne by the lawyer of the petitioner.

**4. That the facts of the case in brief are as follows:**

- 4.1. Considering the Safety and Welfare of Students the Schools, Colleges, educational institutes, etc., were closed across states from 16<sup>th</sup> of March 2020 to 31<sup>st</sup> of March 2020. In regards to the same, The Ministry of Human Resource Development (MHRD), Government of India on 18<sup>th</sup> March 2020 issued a Order [**No. Secy(HE)/MHRD/2020**] titled '**Precautions to be taken in the Light of Novel Corona virus (COVID-19)**' in which it declared the examination to be rescheduled after 31<sup>st</sup> of March 2020 and had taken into consideration the anxiety and mental status of students so as to not create a Panic among them. Pursuant to the same, a press release dated 19<sup>th</sup> March 2020 was published by the Press Information Bureau, Government of India for conveying the said notification. Annexed hereto and marked as '**Annexure-A Collectively**' are the copies of the said Order dated 18<sup>th</sup> March 2020 and Press Release dated 19<sup>th</sup> March 2020.
- 4.2. The Policy & Plan Division of the National Disaster Management Authority, Government of India passed an Order [**No. 1-29/2020-PP (Pr.II)**] dated 24<sup>th</sup> March 2020 specifying that the National Disaster Management Authority is satisfied that the country is threatened by spread of COVID-19 and it is necessary to take effective measures to prevent the spread across the country and therefore invoked the powers under section 6(2)(i) of Disaster Management Act, 2005 and directed the Ministries/Departments of Government of India, State/Union Territories Government and Authorities to take measures for ensuring social distancing and directed National

Executive Committee to issue necessary Guidelines under 10(2)(i) of Disaster Management Act, 2005. Therefore, in Pursuance to the same the National Executive Committee of The Ministry of Home Affairs (MHA), Government of India issued an Order **[No. 40-3/2020-DM-I(A)]** dated 24<sup>th</sup> March 2020 specifying the Guidelines for next 21 Days w.e.f. 25.03.2020 which is widely known as '**First Lockdown (Lockdown-1)**' wherein it specified that all educational, training, research, coaching institutes etc. shall remain closed. Annexed hereto and marked as '**Annexure-B Collectively**' are the copies of the said Orders dated 24<sup>th</sup> March 2020.

4.3. Thereafter, the Lockdown was extended further by The Ministry of Home Affairs, Government of India vide Order **[D.O. No. 4-3/2020-DM-I(A)]** dated 14<sup>th</sup> April 2020 which is widely known as '**Second Lockdown (Lockdown-2)**' and the Ministry of Home Affairs gave revised guidelines dated 15<sup>th</sup> April 2020 for the said Lockdown-2, wherein it specified that all educational, training, research, coaching institutes etc. shall remain closed. Annexed hereto and marked as '**Annexure-C Collectively**' are the copies of the Order dated 14<sup>th</sup> April 2020 and Revised Guidelines of Ministry of Home Affairs dated 15<sup>th</sup> April 2020.

4.4. The Ministry of Home Affairs (MHA) by its Order **[D.O. No. 40-3/2020-DM-I(A)]** dated 19<sup>th</sup> April 2020, specified that the Orders/Guidelines of the Ministry of Home Affairs (MHA) shall be followed strictly as also observed by the Hon'ble Supreme Court of India and stated that the States/Union Territories Government shall not dilute the same but can impose it more strictly. Annexed hereto and marked as '**Annexure-D**' is the copy of the said Order of the Ministry of Home Affairs dated 19<sup>th</sup> April 2020.

4.5. The University Grants Commission (UGC) on 29<sup>th</sup> April 2020 gave comprehensive Guidelines on Examinations and Academic Calendar for the universities in View of COVID-19

Pandemic and Subsequent Lockdown. In the said Guidelines the University Grants Commission (UGC) had proposed a structure for examination and results along with the tentative Academic calendar based on the situation of our country at that particular time and anticipation of the future condition being normal by the first week of May 2020. However, University Grants Commission (UGC) specifically mentioned about alternative mode of examinations to be used, Students interest and safety to be the highest priority, preparedness of the region and spread of corona virus to be considered, Uniformity in education system shall be maintained and following Government Advisories/Guidelines/Directions published from time to time to prevent spread of Corona Virus. Annexed hereto and marked as '**Annexure-E**' is the copy of the said Guidelines of University Grants Commission (UGC) dated 29<sup>th</sup> April 2020.

4.6. Thereafter, again the Lockdown was extended further by The Ministry of Home Affairs, Government of India vide Order [**No. 40-3/2020-DM-I(A)**] dated 1<sup>st</sup> May 2020 which is widely known as '**Third Lockdown (Lockdown-3)**' and the Ministry of Home Affairs gave New Guidelines for the said Lockdown-3 wherein it specified that all educational, training, research, coaching institutes etc. were considered as prohibited activities throughout the country. However, Online/Distance learning was permitted. Annexed hereto and marked as '**Annexure-F**' is the copy of the Order and the New Guidelines of Ministry of Home Affairs dated 1<sup>st</sup> May 2020. However, no revised Guidelines were given by the University Grants Commission (UGC) after the said extension of Lockdown (Lockdown-3).

4.7. Thereafter, again the Lockdown was extended further by The Ministry of Home Affairs, Government of India vide Order [**No. 40-3/2020-DM-I(A)**] dated 17<sup>th</sup> May 2020 which is widely known as '**Fourth Lockdown (Lockdown-4)**' and the Ministry of Home Affairs gave Revised National Guidelines for the said Lockdown-4 wherein it specified that all educational, training,

research, coaching institutes etc. were considered as prohibited activities throughout the country. However, Online/Distance learning was permitted and the same shall be encouraged. Annexed hereto and marked as '**Annexure-G**' is the copy of the Order and the Guidelines of Ministry of Home Affairs dated 17<sup>th</sup> May 2020.

4.8. The University Grants Commission (UGC) had formed a Task force for considering the Redressal of Grievances related to COVID-19 vide Order **[No.F.1-1/2020(Secy)]** dated 10<sup>th</sup> May 2020 and had directed Universities to formulate a separate cell for Handling Grievances relating to Examinations and other academic activities. However, the University Grants Commission (UGC) delegated the task of Grievance redressal to Universities vide Order **[No.F.1-1/2020 (UGC-TF-COVID-19-Advisory)]** dated 26<sup>th</sup> May 2020 and stated that the grievances received needs action on the part of the Universities and therefore directed the universities to form a cell and take necessary actions. Annexed hereto and marked as '**Annexure-H Collectively**' are the copies of the Orders of University Grants Commission (UGC) regarding Grievance Redressal Cell.

4.9. Even after various Orders/Notifications of the Ministry of Home Affairs (MHA) regarding strict implementation of the Guidelines, various reports of violation were reported. Therefore, the Ministry of Home Affairs (MHA) issued a Order **[D.O. No. 40-3/2020-DM-I(A)]** on 21<sup>st</sup> May 2020 for Strict implementation of the said Guidelines of Ministry of Home Affairs (MHA). Annexed hereto and marked as '**Annexure-I Collectively**' are the copies of the said Order of the Ministry of Home Affairs dated 21<sup>st</sup> May 2020 and previous Order dated 17<sup>th</sup> May 2020.

4.10. The situation in our country wasn't normal even after such a long period of Lockdown with 3 extensions. Therefore, another Order with Guidelines **[D.O. No. 40-3/2020-DM-I(A)]** was

issued on 30<sup>th</sup> May 2020 by the Ministry of Home Affairs (MHA) to partially open the lockdown and to extend it for Containment Zones which is widely known as '**Lockdown 5 (Unlock-1)**'. However, keeping the situation in mind Phased re-opening procedure was enshrined in the same based on various considerations and therein the re-opening of School, Colleges, Educational/Training/Coaching institutes, etc., were to be opened in Phase-II after consultation with the States and Union Territories, wherein the State Government/Union Territories administrations were advised to hold consultations at institutional level with parents and stake holders and based on that feedback, a decision of re-opening will be taken in July 2020. Thereafter, MoHFW will prepare a SOP for these institutions. Annexed hereto and marked as '**Annexure-J Collectively**' is the copy of the said Order and Guidelines of Ministry of Home Affairs dated 30<sup>th</sup> May 2020.

- 4.11. However, no Clarification has been given by the University Grants Commission (UGC) after 29<sup>th</sup> April 2020 i.e. the last Guideline by University Grants Commission (UGC) was prior to the Lockdown-3, after which the lockdown is extended twice and the School, Colleges, Educational/Training/Coaching institutes, etc., are prohibited in those Guidelines of Ministry of Home Affairs (MHA) and it Specifically mentioned in the latest Guidelines of Ministry of Home Affairs (MHA) that the decision to reopen the same will be decided after consultation in the month of July (Phase-II). Although, due to the inaction on the part of University Grants Commission (UGC) various Universities have issued notifications/orders/circulars to conduct examinations in conventional/physical manner or by alternative methods based on their interpretation of University Grants Commission (UGC) Guidelines and have completely ignored the Orders by the Ministry of Home Affairs (MHA) Guidelines in those regards. Moreover, these Universities have time and again cancelled/postponed the said examination

which is not only affecting the future/growth aspects of the students but the same are creating confusion and chaos in the educational system and thereby a Havoc and Panic like situation among students and parents in our Country. Various student bodies have made representation to the Universities in this regards.

4.12. Therefore, the petitioners made a representation to the concerned authorities by a letter (**Ref: 1-2020/Student-Grievance**) dated 13<sup>th</sup> June 2020. However, no reply or action was taken by any of those authorities in this regards and therefore another representation was made to the National Disaster Management Authority by a letter (**Ref: 2-2020/Student-Grievance**) dated 20<sup>th</sup> June against such inaction on the part of the authorities. Annexed hereto and marked as '**Annexure-K Collectively**' are the copies of the said Representations.

#### 5. **Source of information:**

It is stated and submitted that the source of information of the facts pleaded is based on the Official Orders, Notifications, Circulars, and Guidelines, etc., of the concerned authorities.

#### 6. **Representation:**

It is stated and submitted that the petitioners have made representations to the Ministry of Home Affairs (MHA), Ministry of Health & Family Welfare (MoHFW), Ministry of Human Resource Development (MHRD), University Grants Commission (UGC) and National Disaster Management Authority (NDMA). However, no reply or action has been taken by those authorities in regards to the issues and therefore, considering the importance of the same and paucity of time, the petitioners in this present case have approached this Hon'ble Court.

**7. Other public interest litigations on same/similar subject matter:**

It is stated and submitted that to the best of the knowledge of the Petitioners, various petitions as to the Global Pandemic of Corona Virus (COVID-19) have been made for various purposes including educational concerns. However, no public interest litigation raising an issue of this nature is filed before this Hon'ble Court or before any other Court.

**8. That main grounds of the present Writ Petition (PIL), are as under:**

**GROUND**

- A. It is stated and submitted that the Safety and Welfare of Students was the utmost priority of the Government as the same were closed even before the actual Order of Lockdown as specified in **Paragraph 4.1**. Thereafter, the Guidelines of Ministry Home Affairs specifically prohibited any educational activities as mentioned in **Paragraph 4.2. & 4.3**. However, the University Grants Commission issued Guidelines for Examination and Academic Calender based on an assumption that the situation will get better in the month of May 2020 as mentioned in **Paragraph 4.5**. Unfortunately, the situation worsened and the said Lockdown was extended as mentioned in **Paragraph 4.6**. and no revised Guidelines were issued by the University Grants Commission in accordance with the Order/Guidelines of the Ministry of Home Affairs and therefore the said Guidelines of University Grants Commission along with the Orders/Notifications/Circulars issued by various universities for conduction examination and admissions, etc. based on the University Grants Commission Guidelines are in contravention to the Orders/Guidelines of the Ministry of Home

Affairs, Government of India and are arbitrary in nature. Hence, the same are bad in eyes of Law and needs to be quashed and set aside.

- B. It is stated and submitted that the Ministry of Home Affairs in all its Guidelines have prohibited educational activities except for Online Learning as mentioned in **Paragraph 4.6. & 4.7.** and have time and again have issued Orders/Notifications for Strict Implementation of the said Guidelines of Ministry of Home Affairs in order to stop the spread of COVID-19 which is mentioned in **Paragraph 4.4. & 4.9.** However, the same was overlooked by the University Grants Commission as well as other concerned authorities and the Universities misinterpreting the same issued Notification/Orders/Circulars in this regards and therefore the said educational activities prohibited by the Ministry of Home affairs needs to be stopped.
- C. It is stated and submitted that even in the recent lockdown i.e. 'Unlock-1' as specified in **Paragraph 4.10.** the decision as to the re-opening of the Schools, Colleges, Educational/Training/Coaching institutes, etc., was to be taken in Phase-II in consultation with the States and Union Territories, wherein the State Government/UT administrations were advised to hold consultations at institutional level with parents and stake holders and based on that feedback, a decision of re-opening will be taken in July 2020 and if the Ministry of Home Affairs is of the view that the same needs to be re-opened then the Ministry of Health and Family Welfare (MoHFW) will prepare a SOP for these institutions. Hence, no such institute can commence any educational activity except online learning before decision is taken by the Ministry of Home Affairs and a SOP is created in this regards by the Ministry of Health and Family Welfare (MoHFW).

- D. The examination if are conducted by Alternative/Online methods then the same will be in violative of Article 14 of the Constitution of India as the same will create inequality among students. As specified in **Paragraph 4.11**. If there is difference in time, conduct, procedure, evaluation, method, etc. of examination by different universities then the same will amount to unequal opportunities to students. For Illustration: 1) A student of a university where examination are still pending will not be able to get admission in a University who has completed examination by alternative method and have already started admission process. 2) The recruiter might give priority to students based on the time, mode of examination, etc., i.e. a difference can be made out among the students, if uniformity is not maintained in the process of examination. Therefore, it is imperative to maintain the uniformity among the Universities in this regards or else it will create enormous issues in the times to come and even the University Grants Commission (UGC) has failed to appreciate the same.
- E. It is stated and submitted that the said adverse, arbitrary and unlawful decisions by authorities have put the student fraternity in serious dilemma and thereby anxiety and panic which has created a Havoc among student bodies and therefore also the same needs to be considered as it not only affecting the students health but also posing a threat on their life and the life of public at large in the given health crisis of COVID-19 as the same can boost the spread of the deadly virus.
- F. It is stated and submitted that if the said orders/notifications/circulars of the authorities/universities are not quashed and a uniform decision is not taken in this regards

by the Concerned Government Authority then the same will amount to a further chaos and a severe breakdown in the educational system as delaying the problem is not actually solving the problem and the same delay might turn into a greater problem in times to come especially when the future of the students is at stake along with their health.

- G. On such further and other grounds as may be urged at the time of hearing.

**9. That the grounds for seeking interim relief are as under:**

**Grounds for Interim Relief**

9.1. The grounds for interim relief have been narrated in the present petition showing the required urgency.

- A. It is stated and submitted the Guidelines of the University Grants Commission (UGC) dated 29<sup>th</sup> April 2020 (Annexure-D) as well as all the Orders/Notifications/Circulars of various authorities/universities based on the same (Annexure-I), related to conducting of the Examinations and Admission process in the present scenario are in contravention to the Order along with Guidelines [**D.O. No. 40-3/2020-DM-I(A)**] dated 30<sup>th</sup> May 2020, issued by the Ministry of Home Affairs (MHA) as the Guidelines specifically prohibits the School, Colleges, Education institutes, etc. from conducting any activities except for Online/Distance Learning and therefore needs to be stayed immediately.

- B. It is stated and submitted that the said examination, promotion, admission or any other such activity by any university in India will break the uniformity and amount to inequality between students in the present situation and therefore needs to be stayed immediately.
- C. It is stated and submitted that no irreparable damage will be cause to the respondents, if interim relief/s as prayed for is granted. If the interim relief/s as prayed for is not granted, it will surely affect the students and public at large and thereby create enormous differences in future in addition to other problems.
10. The petitioners states and submits that the Petitioners have not filed any other petition, appeal or application in Hon'ble the Supreme Court of India or before this Hon'ble Court or in any other Court with regard to the subject matter of the present petition.
11. The petitioners states and submits that the petitioner have no other alternative efficacious remedy but to approach this Hon'ble Court by way of this petition.
- 11.1 The petitioners crave leave to add, amend, alter, rescind any of the para/s as and when required.
12. The petitioners, therefore, pray that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction and thereby be pleased to:

**Prayers**

- A. Allow the present Writ Petition (PIL);
  
- B. Direct the University Grants Commission (UGC) herein respondent no. 6 to call and produce, the grievances of students and stakeholders in regards to examination in the present situation, from all the universities and produce the same before this Hon'ble court along with the grievances which have been directly reported to the University Grants Commission (UGC) and the steps taken by the Task Force on those grievances;
  
- C. Direct the Respondent/s to take decision on how to conduct the Examination and Admission of students in a uniform manner in the present situation at the earliest and formulate an SOP for the institutes as per the Guidelines of the Ministry of Home Affairs (MHA) dated 30<sup>th</sup> May 2020 (Annexure-I);
  
- D. During the pendency of the present petition, this Hon'ble Court may be pleased to direct the respondents to issue an Order/Notification, staying the Examinations and Admissions process in the territory of India, till a uniform alternative method for conducting the examination and admissions is decided by the respondents;
  
- E. Any other and further order as it may be deemed fit by this Hon'ble Court in the interest of justice and equity.

AND FOR THIS ACT OF KINDNESS AND JUSTICE THE  
APPLICANT SHALL AS IN DUTY BOUND FOR EVER PRAY.

Place: Ahmedabad

Date: 22.06.2020

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**Mohammed K. Vohra**  
**Advocate for the Petitioner**

**AFFIDAVIT**

We, PRIYANK VINODBHAI PANDYA and HARSH GHANSHYAMBHAI PATADIA, the petitioners herein do hereby solemnly affirm and state on oath that the statement of facts made in paragraphs 1 to 7 are true to my knowledge or are based on information which I believe to be true.

1. We hereby solemnly affirm and state on oath that remaining contents of the said paragraphs and paragraphs 8 to 9 are legal submissions.
2. We hereby solemnly affirm and state on oath that Paragraphs 10 and 11 are formal in nature.
3. We hereby solemnly affirm and state on oath that paragraph no. 12 (A) to 12 (D) are the prayers made on the basis of legal advice which I believe to be true.

Solemnly affirmed at Ahmedabad on this 22<sup>nd</sup> day of June, 2020.

✓

(Deponents)

Identified by me: