

607-150-3-2019

ગુજરાત યુનિવર્સિટી



ગુજરાત યુનિવર્સિટી કોર્ટની વાર્ષિક સામાન્ય સભા ગુજરાત યુનિવર્સિટીના કોર્ટ ખંડમાં ગુરુવાર, તા.૦૮-૦૫-૨૦૧૮ના રોજ સવારના ૧૦-૦૦ કલાકે મળી હતી. સભાનું પ્રમુખસ્થાન કુલપતિશ્રી પ્રો. એચ. એ. પંડ્યાએ સંભાળ્યું હતું. સભામાં હાજરી નીચે પ્રમાણે હતી :

ક્રમાંક	સભ્યનું નામ	તા.૦૮-૦૫-૨૦૧૮
૧.	માન. શ્રી ઓમ પ્રકાશ કોહલી, કુલાધિપતિશ્રી	ગેરહાજર
૨.	પ્રો. હિમાંશુ એ. પંડ્યા, કુલપતિશ્રી	હાજર
૩.	ડો. એમ. એન. પટેલ	ગેરહાજર
૪.	ડો. પિયુષ એમ. પટેલ	હાજર
૫.	ડો. યોગેશભાઈ પારેખ	હાજર
૬.	કમિશનર ઓફ હાયર એજ્યુકેશન	ગેરહાજર
૭.	ડાયરેક્ટર ઓફ ટેકનીકલ એજ્યુકેશન	ગેરહાજર
૮.	કમિશનર ઓફ હેલ્થ એન્ડ મેડિકલ સર્વિસીસ	ગેરહાજર
૯.	ડાયરેક્ટર ઓફ એમ્પ્લોયમેન્ટ એન્ડ ટ્રેઇનીંગ	હાજર
૧૦.	કમિશનર ઓફ ફૂડ એન્ડ ડ્રગ્સ કન્ટ્રોલ એડમિનિસ્ટ્રેશન	ગેરહાજર
૧૧.	ચેરમેનશ્રી, ગુજરાત સેકન્ડરી એજ્યુકેશન બોર્ડ	ગેરહાજર
૧૨.	શ્રી ઈમરાન યુ. ખેડાવાલા	ગેરહાજર
૧૩.	શ્રી પ્રદીપભાઈ કે. પરમાર	ગેરહાજર
૧૪.	શ્રી દેવાંગ જીતેન્દ્રભાઈ દાણી	ગેરહાજર
૧૫.	શ્રી યોગેશ ડી. શ્રીધર	ગેરહાજર
૧૬.	શ્રી પંકજકુમાર ગીરીજાપ્રસાદ ઠાકર	હાજર
૧૭.	શ્રી ધર્મેશકુમાર હીરાલાલ રાવ	ગેરહાજર
૧૮.	શ્રી વિશાલ પ્રવિણભાઈ પટેલ	ગેરહાજર
૧૯.	શ્રી સતીષકુમાર નટવરલાલ પટેલ	ગેરહાજર
૨૦.	શ્રી પંકજકુમાર રમેશકાંત શુક્લા	હાજર
૨૧.	શ્રી મહેશ બાબુલાલ પટેલ	ગેરહાજર
૨૨.	શ્રી અશોકભાઈ કલ્યાણભાઈ વનાલીયા	હાજર

૨૩.	શ્રી હસમુખ દેવજીભાઈ ચૌધરી	ગેરહાજર
૨૪.	શ્રી બંકીમચંદ્ર જે કીશનદાસ મિસ્ત્રી	ગેરહાજર
૨૫.	શ્રી ભરત વિદુરભાઈ ભગત	હાજર
૨૬.	શ્રી કેતન ધીરજલાલ દેસાઈ	ગેરહાજર
૨૭.	ડો. મનીષ એમ. દોશી	હાજર
૨૮.	શ્રી દેવાંગભાઈ સુધીરભાઈ નાણાવટી	ગેરહાજર
૨૯.	શ્રી રિતેષ કમલકિશોર હાડા	ગેરહાજર
૩૦.	શ્રી બળદેવભાઈ જોષતાભાઈ ચૌધરી	હાજર
૩૧.	શ્રી નિલેશ પી. સથવારા	હાજર
૩૨.	શ્રી રામભાઈ એ. ગાધે	હાજર
૩૩.	શ્રી મુકેશ હરિપ્રસાદ ખટ્ટીક	હાજર
૩૪.	શ્રી શિલ્પા એન. ઠાકર	ગેરહાજર
૩૫.	શ્રીમતી સોનલ આર. પંડયા	ગેરહાજર
૩૬.	શ્રી ઇશ્વરભાઈ એન. ગામીત	હાજર
૩૭.	શ્રી પ્રતાપસિંગ રતીલાલભાઈ પડવી	ગેરહાજર
૩૮.	શ્રી પંકજ એમ. શ્રીમાળી	હાજર
૩૯.	ડો. દિગ્વિજયસિંહ જી. ગોહિલ	હાજર
૪૦.	શ્રી રમેશભાઈ જોષતારામ ચૌધરી	હાજર
૪૧.	શ્રી રણજીતસિંહ જોરુભા ઝાલા	હાજર
૪૨.	શ્રી હર્ષદ મગનલાલ બ્રહ્મભટ્ટ	ગેરહાજર
૪૩.	શ્રી હર્ષદકુમાર એ. પટેલ	ગેરહાજર
૪૪.	ડો. ધવલ આર. પટેલ	હાજર
૪૫.	શ્રી અવિનાશ જસવંતલાલ શાહ	ગેરહાજર
૪૬.	શ્રી રાજેશ પી. સથવારા	હાજર
૪૭.	શ્રી ગીરીશ કનુભાઈ રાણા	હાજર
૪૮.	શ્રી રાજેન્દ્ર મગનલાલ જાદવ	ગેરહાજર
૪૯.	શ્રી લક્ષ્મણભાઈ કે. પરમાર	હાજર
૫૦.	શ્રી મહેશકુમાર સી. પટેલ	ગેરહાજર
૫૧.	શ્રી ધવલ કનૈયાલાલ વાઘેલા	હાજર
૫૨.	શ્રી નિતલ રમેશચંદ્ર પંચાલ	ગેરહાજર
૫૩.	શ્રી વિજયસિંહ બી. પટેરીયા	હાજર

૫૪.	શ્રી કૌશિકકુમાર ચીમનલાલ રાવલ	હાજર
૫૫.	શ્રી હિરેન બાબુભાઈ પટેલ	હાજર
૫૬.	શ્રી દિપક ગુણવંતરાય શુક્લ	હાજર
૫૭.	શ્રીમતી મયુરી હિમાંશુ પંડ્યા	હાજર
૫૮.	શ્રી હરેશ પી. ભાલોડિયા	ગેરહાજર
૫૯.	શ્રી દેવલ એમ. દેસાઈ.	હાજર
૬૦.	શ્રી વિપુલકુમાર નાનજીભાઈ સોલંકી	હાજર
૬૧.	શ્રી નિતીનકુમાર ડાહ્યાભાઈ શાહ	હાજર
૬૨.	શ્રી જીગ્નેશ એમ. કૌંગલ	હાજર
૬૩.	શ્રી પ્રકાશ બી. ખુમાન	હાજર
૬૪.	શ્રી દેવદત્ત રામસિંગ રાણા	હાજર
૬૫.	શ્રી જસવંતભાઈ હરીભાઈ ઠક્કર	ગેરહાજર
૬૬.	શ્રી અશ્વિનકુમાર જસવંતલાલ પટેલ	ગેરહાજર
૬૭.	શ્રી મનુભાઈ બી. ભરવાડ	હાજર
૬૮.	ડૉ. અર્ધ કે. પટેલ	હાજર
૬૯.	શ્રી સુભાષ વાડીલાલ બ્રહ્મભટ્ટ	ગેરહાજર
૭૦.	શ્રી જયવંતસિંહ અંકુભાઈ સરવૈયા	ગેરહાજર
૭૧.	શ્રીમતી ગીતા પ્રાણલાલ મહેતા	ગેરહાજર
૭૨.	શ્રી હિતેશકુમાર રમેશચંદ્ર ભટ્ટ	હાજર
૭૩.	શ્રી સ્ટારપાયલ નટરાજન ઐયર	ગેરહાજર
૭૪.	શ્રી સંગીતા પુષ્કર ઘાટે	ગેરહાજર
૭૫.	શ્રી ગીતા ગીરીશભાઈ પંડ્યા	ગેરહાજર
૭૬.	શ્રી નિરજા અરૂણ ગુપ્તા	ગેરહાજર
૭૭.	શ્રી મહિપતસિંહ દાનસિંહ ચાવડા	ગેરહાજર
૭૮.	શ્રી જગદીશભાઈ એસ. ચૌધરી	હાજર
૭૯.	શ્રી આશા સનતકુમાર પંડીત	ગેરહાજર
૮૦.	શ્રી ચતુરભાઈ પ્રભુદાસ પટેલ	ગેરહાજર
૮૧.	શ્રી હરેશકુમાર ભુપતભાઈ વાઢેલ	હાજર
૮૨.	શ્રી કિરણ ચંદ્રકાન્ત દેશમુખ	હાજર
૮૩.	શ્રી ભાનુકુમાર ખુમજી જૈન	ગેરહાજર
૮૪.	શ્રી રૂતેશ રમણીકલાલ શાહ	ગેરહાજર

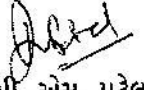
૮૫. શ્રી અરૂણેન્દ્રસિંહ એસ.રાઠોડ	ગેરહાજર
૮૬. શ્રી લક્ષ્મીકાંત એસ.પાઠક	હાજર
૮૭. ડૉ.રૂષિકેશ વી.મહેતા	હાજર
૮૮. શ્રી દિલીપકુમાર એ.મેવાડા	હાજર
૮૯. શ્રી અરૂણ એચ.વ્યાસ	ગેરહાજર
૯૦. શ્રી સંજય એમ.વકીલ	હાજર
૯૧. શ્રી સુરેશચંદ્ર કે.ત્રિવેદી	ગેરહાજર
૯૨. શ્રી ગોપાલ આર.ભટ્ટ	ગેરહાજર
૯૩. શ્રી મહેન્દ્ર જી.ભટ્ટ	ગેરહાજર
૯૪. શ્રી હરજીતસિંહ ડી.શીખ	હાજર
૯૫. શ્રી શંકરસિંહ આર.રાણા	ગેરહાજર
૯૬. શ્રી ડોલી પંકજ પટેલ	ગેરહાજર
૯૭. શ્રી પંકજ સી.પટેલ	હાજર
૯૮. શ્રી ઈન્દ્રવિજયસિંહ જી.ગોહિલ	હાજર
૯૯. શ્રી જોન જોશ	ગેરહાજર
૧૦૦. ડૉ.પ્રદિપભાઈ પી.પ્રજાપતિ	હાજર
૧૦૧. ડૉ.બળદેવભાઈ વી.પટેલ	હાજર
૧૦૨. ડૉ.જે.એસ.જોશી	ગેરહાજર
૧૦૩. ડૉ.ડી.ડી.ઝાલા	હાજર
૧૦૪. શ્રી નૂતન કોટક	ગેરહાજર
૧૦૫. ડૉ.પ્રતિક કંચન	ગેરહાજર
૧૦૬. શ્રી ધવલસિંહ એન.ઝાલા	ગેરહાજર
૧૦૭. ડૉ.વનરાજસિંહ કે.ચાવડા	હાજર
૧૦૮. શ્રી ધુમીલભાઈ ડી.પટેલ	હાજર
૧૦૯. શ્રી મહેશભાઈ એલ.ક્સવાલા	ગેરહાજર
૧૧૦. શ્રી કૌશિક જૈન	ગેરહાજર
૧૧૧. ડૉ.શિવાની એસ.રાજપુરોહિત	ગેરહાજર
૧૧૨. શ્રી ધીરજકુમાર એચ.રાઠોડ	હાજર
૧૧૩. ડૉ.રશ્મીકાંત વી.દવે	ગેરહાજર
૧૧૪. શ્રી નરેશ દેસાઈ	હાજર
૧૧૫. શ્રી ચિરાગ પટેલ	હાજર

બા.ક.૧ એકેડેમિક કાઉન્સિલના તા.૮-૫-૨૦૧૮ની સભામાં બાબત ક્રમાંક-૧- તથા એકિઝક્યુટિવ કાઉન્સિલના તા.૮-૫-૨૦૧૮ની સભામાં બાબત ક્રમાંક-૧-માં થયેલ ચર્ચા મુજબ ગુજરાત યુનિવર્સિટી સેનેટ પર વિદ્યાર્થી પ્રતિનિધિઓની ચૂંટણી તથા બોર્ડ ઓફ વેલ્ફેરના સભ્યોની ચૂંટણી ૨૦૧૭-૧૮ પરત્વે થયેલ એસ.સી.એ.૩૯૪૧/૨૦૧૮, એસ.સી.એ.૪૩૪૭/૨૦૧૮ તથા એસ.સી.એ.૪૩૮૫/૨૦૧૮નાં સંયુક્ત ચુકાદાની નકલ આ સાથે સાદર કરેલ છે, જે સંદર્ભે તા.૩૧-૦૩-૨૦૧૮નાં યોજાયેલ સેનેટમાં થયેલ ચર્ચા વિચારણા મુજબ નિમાયેલી કમિટીના અભિપ્રાય તેમજ યુનિવર્સિટીનાં વકીલશ્રીના કાનૂની અભિપ્રાય મુજબ યુનિવર્સિટી બોર્ડ ફોર સ્ટુડન્ટ વેલ્ફેર ઈલેક્શન બાબતે Statue 14-D યુનિવર્સિટી એક્ટમાં સામેલ કરવા બાબતે ચર્ચા વિચારણા કરવા બાબત.

(નોંધ: સેનેટ દ્વારા નિમાયેલ કમિટીની મીટીંગમાં થયેલ સૂચના મુજબ યુનિવર્સિટી વકીલશ્રીએ તૈયાર કરેલ Statue 14-Dનો ડ્રાફ્ટ તથા SCA No:3941/4347,4385ની નકલ આ સાથે પરિશિષ્ટ -૧- તરીકે સામેલ છે.)

ઠરાવ: સદરહુ બાબતે તા. ૩૧-૦૩-૨૦૧૮ના યોજાયેલ સેનેટની મીટીંગમાં થયેલ ચર્ચા વિચારણા મુજબ નીમાયેલ કમિટીનો અભિપ્રાય તથા યુનિવર્સિટીના વકીલશ્રીના કાનૂની અભિપ્રાય મુજબ યુનિવર્સિટી બોર્ડ ફોર સ્ટુડન્ટ વેલ્ફેર ઈલેક્શન બાબતે સ્ટેચ્યુટ-૧૪-ડી યુનિવર્સિટી એક્ટમાં સામેલ કરવા અંગે તા. ૦૮-૦૫-૨૦૧૮ ની એકેડેમિક કાઉન્સિલ તથા એકિઝક્યુટિવ કાઉન્સિલમાં થયેલ ઠરાવ સર્વાનુમતે મંજૂર કરી રાજ્ય સરકારમાં યુનિવર્સિટી એક્ટમાં સામેલ કરવા અંગે ઠરાવવામાં આવ્યું.

ત્યારબાદ સભાનું કામકાજ પૂર્ણ થયું હતું.

હુકમથી 
ડૉ. પી. એમ. પટેલ
કુલસચિવ(ઇન્ચાર્જ)

નં.કોર્ટ/૩૪૫/૨૦૧૮
ગુજરાત યુનિવર્સિટી કાર્યાલય
અમદાવાદ-૯
તા.૦૮-૦૫-૨૦૧૮

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 3941 of 2018

With

R/SPECIAL CIVIL APPLICATION NO. 4347 of 2018

With

R/SPECIAL CIVIL APPLICATION NO. 4385 of 2018

TASVEERKUMAR KISHORBHAI NINAMA

Versus

VICE CHANCELLOR, GUJARAT UNIVERSITY

Appearance in **SPECIAL CIVIL APPLICATION NO. 3941 of 2018**
 MR. AMIT M. PANCHAL, ADVOCATE WITH MR. SIDDHARTH JHA,
 ADVOCATE (7884) for the PETITIONER(s) No. 1
 MR. S.I. NANAVATI, SENIOR ADVOCATE WITH MR. P.K. JANI, SENIOR
 ADVOCATE WITH MR SAURIN A MEHTA(470) for the RESPONDENT(s)
 No. 1
 MR. S.N. SHELAT, SENIOR ADVOCATE WITH MRS VD NANAVATI(1206)
 ADVOCATE for the RESPONDENT(s) No. 2
 MS MANISHA LAVKUMAR, GOVERNMENT PLEADER WITH MR.
 TIRTHRAJ PANDYA, AGP for the RESPONDENT(s) No. 3
 NOTICE SERVED BY DS(5) for the RESPONDENT(s) No. 4

Appearance in **SPECIAL CIVIL APPLICATION NO. 4347 of 2018**
 MR. P.S. CHAMPANERI, ADVOCATE WITH MR. A.S. TIMBALIA,
 ADVOCATE for the PETITIONER(s) No. 1
 MS MANISHA LAVKUMAR, GOVERNMENT PLEADER WITH MR.
 TIRTHRAJ PANDYA, AGP for the RESPONDENT(s) No. 1
 MR. S.N. SHELAT, SENIOR ADVOCATE WITH MR VIKAS V. NAIR,
 ADVOCATE for the RESPONDENT(s) No. 2
 MR. P.K. JANI, SENIOR ADOVCATE WITH MR. HARSHEEL D. SHUKLA,
 ADVOCATE for the RESPONDENT(s) No. 3

Appearance in **SPECIAL CIVIL APPLICATION NO. 4385 of 2018**
 MR. SUDHANSHU A. JHA, ADVOCATE for the PETITIONER(s) No. 1
 MR. S.N. SHELAT, SENIOR ADVOCATE WITH MR VIKAS V. NAIR,
 ADVOCATE for the RESPONDENT(s) No. 1
 MR. P.K. JANI, SENIOR ADVOCATE WITH MS MANISHA LAVKUMAR,
 GOVERNMENT PLEADER WITH MR. TIRTHRAJ PANDYA, AGP for the
 RESPONDENT(s) No. 2

CORAM: HONOURABLE MS.JUSTICE BELA M. TRIVEDI

Date : 26/03/2018

COMMON ORAL ORDER

1. All the petitions pertaining to the elections of Students Representatives in the Court and in the Board for Students' Welfare, were tagged and heard together with the consent of learned advocates for the respective parties.
2. In Special Civil Application No. 3941 of 2018, the petitioner has prayed for following reliefs : -

"(A) Direct the respondent Nos. 1 and 2 to comply and implement the Guidelines for Strict Implementation of Reservation Policy of the Government in Universities, deemed to be universities, colleges and other grant-in-aid Institutions and centres, prescribed by the University Grants Commission, New Delhi and the resolution dated 31.03.2016 and 26.07.2016 passed by the respondent University and as required under Article 15 of the Constitution of India;

(B) Direct the respondent State of Gujarat to take necessary decisions upon the proposals received for making amendments for statutory support for reservation in admission, appointments to teaching and non-teaching posts and representation of SC/ST in their bodies like Syndicate Executive Council, Academic Council, Selection Committees, etc;

(C) Pending the admission, hearing and final disposal of this petition, Your Lordships may be pleased to direct the respondent herein to defer the election programme 2017-18 as indicated in Annexure A so as to prevent a non conducive atmosphere and to ensure that peace and tranquility at the university campus is

maintained and there is no commotion by the students as has been observed by this Honourable Court in paragraph 6 and 7 of the order dated 10.03.2017 passed in Special Civil Application No. 5086 of 2017 annexed at Annexure G;

(D) Grant an ex-parte ad-interim relief in terms of prayer C;

(E) Pass such other and further order or orders, as may be deemed just and proper in the facts and circumstances of the present case;"

3. In Special Civil Application No. 4347 of 2018, the petitioners have prayed for following reliefs : -

"(A) This Hon'ble Court may be pleased to admit and allow this present application;

(B) This Hon'ble Court may please to pass an order and quashed and set aside the circular No.R/35221/2018 dated 15.03.2018.

(C) Pending admission, hearing and final disposal of this application, Your Lordship may be pleased to stay the circular No.R/35221/2018 dated 15.03.2018;

(D) Your Lordship Pass such other and/or further orders that may be thought just and proper, in the facts and circumstances of the present case;"

4. In Special Civil Application No. 4385 of 2018, the petitioner has prayed for following reliefs : -

"(A) Your Lordship may be pleased to admit and allow my petition;

(B) Your Lordship may be pleased to issue a writ of mandamus or any other appropriate

writ, order or direction directing the respondent no. 1 to modify the voter list and delete those names which are not filled in/submitted as per the prescribed form/format issued by the University, and declare the same as improper, illegal and against the statutory provisions;

(C) Your Lordship may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent no. 1 to conduct election with corrected voter list;

(D) Pending hearing and final disposal of this petition, Your Lordship may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents colleges to provide the original address of the voters; and further be pleased to punish the respondents for their mala fide action to affect the university election;

(E) Your Lordship may be pleased to provide the cost of this petition;

(F) Any other and further relief/s as may be deemed just and proper in the facts and circumstances of the present case may kindly be granted."

5. After having heard learned advocates for the parties and perusing the documents on record, it appears that the election programme for the year 2017-18 for the constituency of ten representatives of Students on the Court and the Board for Students Welfare was published by the Registrar on 23.01.2018. However, vide the circular dated 15.03.2018, the respondent - Vice Chancellor postponed the said elections on the ground that there were serious issues involved with regard to the implementation of the

reservation policy and other incidental issues. It further appears that the rival groups involved in the elections had tried to create ruckus and unhealthy atmosphere, pressurising the Vice Chancellor in the campus of the university as one group was insisting for the implementation of the reservation policy pursuant to the recommendations made by the U.G.C., the other group was aggrieved because of the non-implementation of the proper procedure as per the Statutes and Ordinances, whereas the third group was insisting for holding the elections. Ultimately, the Vice Chancellor having postponed the said elections, the present petitions have been filed seeking various prayers as stated hereinabove.

6. Rival contentions were raised by the learned advocates for the parties on the powers of the Vice Chancellor to postpone or stay the elections. However, during the course of hearing, it was noticed by the Court that the election programme was published pressing into service the Ordinance 51-A of the Ordinances framed by the University, which prescribes the manner in which the election for the Board of Students Welfare should be held, however, as per Section 54 of the Gujarat University Act, 1949 (hereinafter referred to as 'the said Act'), every election to any authority of the University and every recommendation for the

nomination to the office of the Vice Chancellor under the Act, has to be made by the system of proportional representation by means of a single transferable vote by ballot in such manner as may be prescribed by the Statutes. Thus, the manner and system of proportional representation in every election to any authority of the University had to be prescribed in the Statutes and not in the Ordinances. In the instant case, since the elections of Board for Students' Welfare, which is one of the Authorities of the University, are sought to be held as per the procedure prescribed in Ordinance 51-A of the Ordinances, the Court had called upon the learned advocates for the parties to address the Court on the said legal issues, however, none of them could dispute or disagree with the said position of law that the election to any authority of the University has to be held in the manner as may be prescribed in the Statutes and that such manner or system could not be prescribed in the Ordinances.

7. At this juncture, it would be relevant to mention that Section 15 of the Act enumerates the Authorities of the University. "The Court" and "the Board for students' Welfare", are the authorities enumerated in Clause (i) and (viii) respectively in the said Section. Section 16 pertains to the constitution of the "Court". Class-II thereof provides for the ordinary

members of the Court and Clause B of Class-II states that twelve students as mentioned therein shall be elected in the manner specified in the Statutes. The constitution of the "Board for students' welfare" has been provided in Clause-6 of Schedule-II to the said Act. As per the said provision, apart from other members as stated therein, all the student members of the Court shall also be the members of the said Board.

8. It may be further noted that the Section 26 of the Act provides that University shall establish Boards including the Board for Students' Welfare, as may be prescribed by the Statutes. Section 29 states that the Statutes may be made by the Court or may be amended, repealed or added to by the Statutes made by the Court. The powers and duties of the Court are enumerated in Section 18, one of which is to make, amend or repeal the Statutes.

9. As stated herein above, since the election of every authority of the University by proportional representations has to be undertaken in the manner as may be prescribed by the Statutes in view of Section-54, the University could not have prescribed the manner of holding the election to the Board for Students' Welfare in the Ordinance. When the Act itself states that the manner or system has to be provided in the Statutes, the same could

not be provided in the Ordinances. It is well settled that where the Statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. In the case of *State of Uttar Pradesh versus Singhara Singh and Others* reported in AIR 1964 SC 358, it was observed as under : ...

"8. The rule adopted in *Taylor v. Taylor* reported in (1875) LR 1 CH D 426 is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted."

10. This proposition has been later on reiterated in *Chandra Kishore Jha Vs. Mahavir Prasad* reported in 1999 (8) SCC 266, *Dhananjaya Reddy Vs. State of Karnataka* reported in 2001 (4) SCC 9, *Gujarat Urja Vikas Nigam Limited vs. Essar Power Limited* reported in 2008 (4) SCC 755 and *Dipak Babaria and Another versus State of Gujarat and Others* reported in (2014) 3 SCC 502.

11. In view of the above, the manner of holding election or the system of proportional representations provided in the Ordinances and not in the Statutes made by the Court does not appear to be in consonance with the provisions

of the Act. Ergo, the election programme dated 23.01.2018 published by the Registrar for the representatives of the Students on the Court and the Board for Students' Welfare, pressing into service ordinance 51-A cannot be permitted to be proceeded further. Hence, no direction to hold the election pursuant to the said election programme could be issued as prayed for in the petition being Special Civil Application No. 4347 of 2018. In that view of the matter, the Court does not propose to go into the issue as to whether the decision of the Vice Chancellor dated 15.03.2018 to postpone the circular, was legal and proper or not. Even otherwise, as per the said election programme, the elections were to be held on 25.03.2018, and therefore the issue with regard to the powers of Vice Chancellor to postpone the election has paled into insignificance.

12. However, the legal lacuna found in making provisions in the Ordinances instead of Statutes with regard to the manner and system of holding elections to the Authorities of the University, deserves to be rectified by the Court, to hold the future elections in legal and proper manner.

13. It is stated by the learned Senior Advocate Mr. S.N. Shelat for the respondent - University that the meeting of the Court is scheduled to be held on 31.03.2018, and an additional agenda for

amendment in the Statutes could be placed in the said meeting, otherwise the Vice Chancellor could convene a special meeting of the Court under Section 17(2) of the said Act. It is also required to be noted that since last two-three years, lot of commotion and ruckus is being created by the students on account of non-implementation of the reservation policy. It is submitted by the learned Senior Advocate Mr. P.K. Jani for the respondent - Vice Chancellor that a special committee was constituted by the University to look into the recommendations made by the UGC with regard to the reservation policy and the report of the committee with necessary recommendations of the University has been submitted to the Government for taking appropriate decision. The learned Government Pleader Ms. Manisha Lavkumar has stated that the Government has already constituted a committee vide the Government Resolution dated 23.01.2018 with regard to the said recommendations of U.G.C. and appropriate decision shall be taken by the Government after the receipt of the report from the said committee.

14. In view of the above, and in order to avoid any complication or ambiguity in future in the matter of holding elections to the Court and the Board of Students' Welfare, the Court thinks it proper to issue following directions : -

(i) The respondent Vice Chancellor shall place the issue with regard to the amendment in the Statutes for prescribing the manner or system of holding elections to the authorities more particularly the Board for Students' Welfare for consideration before the Court in the meeting to be held on 31.03.2018. If it is not possible to do so due to shortage of time, the Vice Chancellor shall convene a special meeting of the Court as contemplated in Section 17(2) of the said Act for taking decision on the said issue. Such special meeting shall be convened as expeditiously as possible and not later than six weeks from today.

(ii) Since the State Government has already constituted the committee to consider the recommendations with regard to the reservation policy as per Government Resolution dated 23.01.2018, the said committee constituted by the Government, is directed to submit its report as expeditiously as possible and preferably within three months from the date of receipt of copy of this order. It is expected that on submission of such report by the committee, the State Government shall take appropriate decision as expeditiously as possible.

15. Subject to the aforesaid directions, all the petitions are disposed of.

(BELA M. TRIVEDI, J)

AMAR

Suresh N. Shelat

Sr. Advocate

14, Saurabh Society, Drive-in-Road, Ahmedabad-380 009.

Observation :- :- The Vice Chancellor,
Gujarat University,
Navrangpura,
Ahmedabad.

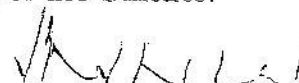
Pursuant to the judgment and order dated 26.3.2018 passed by the Gujarat High Court in Special Civil Application No.3941 of 2018 and allied matters the Gujarat University was directed to frame Statute for election for Board of Students Welfare. Formerly the University had framed Ordinance to regulate the election for the Board of Students Welfare.

I have seen the draft Statute which is required to be inserted after Statute 14C. The draft Statute is required to be placed before the Executive Council. After the Executive Council approves the draft the same draft is to be approved by the University Court. The provisions also requires that assent of the Hon'ble Chancellor is required to be obtained before any Statute comes into force.

The Vice Chancellor is, therefore, requested to take appropriate steps accordingly for making of the Statute.

Advise accordingly,

Date: 25th April, 2018


(S. N. Shelat)
Sr. Advocate

To be placed in Statutes of the Gujarat University Act, 1949 after
Statute 14 – C as Statute 14-D :

In exercise of powers under section 17 read with section 29 of the Gujarat University Act, 1949, the Executive Council of the Gujarat University proposes the draft of Statute 14- D in the Statutes of Gujarat University Act, 1949 for the Constitution and Election of the Board for Students' Welfare :

Statute 14 D : Board for Students' Welfare

- (1) Fourteen representatives from amongst members of the Union of University students, of the Unions of students of affiliated colleges and Unions of students of recognised or approved institutions as the case may be, shall be elected by the members of the said unions in such manner that –
 - (a) ten representatives including not less than three women shall be students from University colleges, University departments, affiliated colleges and recognised or approved institutions situated within the limit of the city of Ahmedabad as constituted under the Gujarat Provincial Municipal Corporations Act, 1949; and
 - (b) four representatives including not less than one woman shall be students from affiliated colleges and recognised or approved Institutions situated outside the limits of the city of Ahmedabad.
- (2) Election for the 14 representatives mentioned in clause (1) (a) and (b) above, shall be held by ballot in the manner prescribed herebelow :

All the members representing the students on (i) The Union of the University students or (ii) the Unions of students of affiliated colleges or (iii) Unions of students of recognized or approved institutions, if any, as specified herebelow shall constitute the electoral constituency for the purpose of electing 14 representatives from among themselves :

 - (a) Every class or a division thereof shall be represented by one of its students on the students' union, the mode of representation being determined by the Principals of the colleges or the Directors of the University Schools or the Heads of the recognised or approved institutions, as the case may be.

...2/-

- (3) The Principals of the colleges, the Directors of the University Schools and the Heads of recognised or approved Institutions (if any) shall intimate to the Registrar on or before such date as may be fixed by the Vice-Chancellor, the names of the members of the Unions or the students of their respective colleges, schools and recognised or approved institutions as the case may be. The aforesaid list of voters sent by the Principal of the College/Director of the School/Head of the Institution/Professor-in-charge of the PG Centre under his/her signature and seal shall be final and no appeal thereon shall be entertained by any authority of the University.
- (3-A) All above fourteen representatives mentioned in clause (1)(a) and (b) shall be duly enrolled as student as on 15th July of that academic year or such other date as may be fixed by the Vice Chancellor, if in his opinion such change in date is necessary.
- (3-B) Nomination paper of every student contesting election mentioned in this statute shall contain certificate confirming the enrolment of the above student at his PG School/Department or PG Centre or affiliated College, duly signed by the Director of his P.G. School/Department or Professor-in-charge/Principal of his P.G. Centre or Head the recognised Institution or by the Principal of affiliated college as the case may be, certifying his enrolment as above at his P.G. School/Department or P.G. Centre or affiliated college.

Explanation : Students' Union referred to hereinabove means the representative body constituted under sub-clauses (a) of clause No.2 hereinabove. Union of University students shall mean and include Unions of students of post-graduate schools of the University and Unions of students of recognised or approved Institutions, if any, of the University, while Unions of students of colleges shall mean and include Unions of students of affiliated colleges as well as students of post-graduate centres, if any, instituted at the colleges concerned.

- (4) (a) The date of election of students' representatives on the Board of Students' Welfare from amongst the members of the unions of University students and the Union of students of affiliated colleges and unions of the students of recognised or approved institutions shall be as fixed by the Vice-Chancellor.
- (b) Publication of the electoral rolls, announcement of the notice board that the rolls are ready, and publication of the notice of the election in the newspapers selected by the Vice-Chancellor, shall be made at least 30 clear days before the date of election.
- (c) The Vice-Chancellor shall have the authority to correct the rolls, if any omission or wrong entry is brought to his notice at least 21 clear days before the date of election. The Vice-Chancellor's decision in the matter shall be final.

...3/-

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[Handwritten signatures and initials]

- (d) The last date for receiving nomination-papers for election under this statute from students shall be fixed on or before 4.00 p.m. at least 15 clear days before the date of election.
- (e) The scrutiny of nominations, withdrawal thereof and intimation of valid nominations shall be as per Statutes 149, 150 and 151 in so far as they are applicable.
- (f) In case of any doubt or dispute in respect of the election of representatives as voters as mentioned in the above sub-clauses, the decision of the Director of the University School or Principal of the college or the Head of the PG Centre/ recognized Institution concerned, as the case may be, shall be final.
- (g) Election shall be held by ballot at polling centres as fixed by the Vice-Chancellor for the same and in the notice of election, centres and places of election where the voters will be required to go in person to vote, shall be notified. The holding of election and its procedure will be as per Statute 162.
- (5) Every voter eligible to vote at an election shall be permitted to vote only on production of an Identity Card (bearing his full name and recent photograph) issued by the Principal of the respective colleges, Head of the recognised or approved Institutions or Directors of University Schools, as the case may be. It is further provided that no voter shall be permitted to vote at a polling centre other than the fixed in the town, in which as his college or institution or the post-graduate centre, as the case may be, where he is already enrolled as a student is situated.
- (6) The statutes/rules governing election by Ballot at the polling centres shall, except as otherwise expressly provided for apply mutatis mutandis to the election of fourteen student representatives on the Board for Students' Welfare.
- (7) Notwithstanding anything contained elsewhere, it shall be competent for the Vice-Chancellor to make such suitable modification in the time schedule for the various processes in the election of fourteen student representatives on the Board for Students' Welfare as he deems necessary in the circumstances so require.

Handwritten signatures and initials:
A large signature on the left, possibly "Ramesh".
A signature in the center, possibly "S. S. S.". 1999
A signature on the right, possibly "K. S. S.". 94
A signature at the bottom, possibly "Rajesh".