

Direction No 10 of 2023

Use of Unfair means, Malpractices and Lapses on the Part of Students and other Persons, in conduct of and in University Examination Direction, 2023.

Whereas, the Maharashtra Public Universities Act, 2016 has come into force with effect from 1st March 2017 (Mah. Act VI 2017) (hereinafter the "Act") and the same has been made applicable to the Gondwana University, Gadchiroli (hereinafter the "University");

AND

Whereas, sub section (5) of section (48) of the Act provides for constitution of a committee for investigation of and taking disciplinary action in respect of failure to render assistance or service in respect of University examinations and other matters;

AND

Whereas, as per Clause (a) of sub-section (10) of section 71 of the Act a statute is required to be framed for taking disciplinary action against the students of the University for using unfair means in the examination;

AND

Whereas, a combined Statute laying down the procedure for taking disciplinary action under sections 48 and 71(10)(a) is desirable but since making of the Statute is a time-consuming process necessitating issuance of a Direction by the Vice-Chancellor;

AND

Whereas, Direction No. 26 of 2018 issued by the University on the same said subject-matter has lapsed by Virtue of the proviso to section 12(8) of the Act necessitating issuance of a fresh Direction incorporating the provisions of the said lapsed Direction;

Now, therefore, I, Dr. Prashant S. Bokare, Vice-Chancellor, Gondwana University, Gadchiroli, in exercise of the powers conferred upon me vide sub-Section (8) of section 12 of the Maharashtra Public Universities Act, 2016, do hereby issue the following Directions: -

1. This Direction may be called "Use of Unfair means malpractices and lapses on the part of students and other persons in conduct of and in University Examination Direction 2023.
2. This Direction shall come into force with effect from the date of its issuance.

PART ONE

Unfair means & malpractices resorted to by the student(s) :-

1. Powers of Inquiry and Punishment :-

On receipt of a report regarding use of unfair means by any student at any University examination, including breach of any of the rules laid down by the University Authorities, for proper conduct of examination, the Board of Examinations & Evaluation shall have power at any time to institute enquiry and to punish such unfair means or breach of the rules by exclusion of such student from any University examination for a specified period or from any University course in a College or Recognized Institution or in the University Department or from any Convocation for the purpose of conferring degree either permanently or for a specified period, or by cancellation of the result of the student in the University examination for which the student appeared or by deprivation of any University scholarship held by him/her or by cancellation of the award of any University prize or medal to him/her or in any two or more of the aforesaid ways.

2. Competent Authority to inquire:-

The Board of Examinations and evaluation of the University constituted under the provisions of section 47(3) shall be the competent authority to inquire into the matter against the students using, attempting to use, aiding, abetting, instigating or allowing to use unfair means at the examination conducted by the University.

3. Definition-Unless the context otherwise requires :

- (a) "Student" means and includes a person who is enrolled as such by the University for receiving instruction qualifying for any degree, diploma or certificate awarded by the University. It includes ex-student and student registered as external examinee or any of the degree, diploma or certificate examination.
- (b) "Unfair means" includes one or more of the following acts or omissions on the part of student/s during the examination period.

- (i) Possessing unfair means material and or copying there from
 - (ii) Transcribing any unauthorized material or any other use there of.
 - (iii) Intimidating or using obscene language or threatening or use of violence against invigilator or person on duty for the conduct of examination or manhandling him/her or leaving the examination hall without permission of the invigilator/ person on duty or causing disturbances in any manner in the examination proceedings.
 - (iv) Unauthorisely communicating with other examinees or any one else inside or outside the examination hall.
 - (v) Mutual/Mass copying.
 - (vi) Smuggling-out, either blank or written, or smuggling-in of answer books as copying material, or smuggling out or in of printed question paper.
 - (vii) Smuggling-in blank or written answer book and forging signature of the Invigilator/person on duty, thereon.
 - (viii) Interfering with or counterfeiting of University seal, or question paper or answer books or office stationary used in the examination.
 - (ix) Insertion of currency notes in the answer books or attempting to bribe any of the persons connected with conduct of examinations.
 - (x) Impersonation at the University examination.
 - (xi) Revealing identity in any form in the answer written or in any other part of the answer book by the student at the University examination.
 - (xii) Or any other similar act/s and/or omission/s which may be considered as unfair means by the competent authority.
- (c) "Unfair means relating to examination" means and includes directly or indirectly committing or attempting to commit or threatening to commit any act or coercion, undue influence or fraud or malpractice with a view to obtaining wrongful gain to him or to any other person or causing loss to other person/s.
- (d) "Unfair means material" means and includes any material whatsoever, related to the subject of the examination, printed, typed, handwritten or otherwise on the person or on clothes, or body of the student (examinee) or on wood or other material, in any manner or in the form of chart, diagram, map or drawing or electronic aid etc. which is not allowed in the examination hall.

- (e) "Possession of unfair means material by a student" means having any unauthorised material on his/her person or desk or chair or table or at any place including bag or purse within his/her reach, in the examination centre and its environs or premises at any time from the commencement of the examination till its conclusion.
- (f) "Student found in possession" means a student, reported in writing, as having been found in possession of unfair means material by Invigilator, Co-Officer, Officer-InCharge, member of the competent authority or vigilantes or any other person authorised for this purpose, in this behalf, even if the unfair means material is not produced as evidence because of it being reported as swallowed or destroyed or snatched away or otherwise taken away or spoiled by the student or by any other person acting on his behalf to such an extent that it has become illegible. Provided report to that effect is submitted by the co-officer or officer-In-charge or any other authorised person to the Director, Board of Examinations & Evaluation or any officer authorised in this behalf.
- (g) "Material related to the subject of examination" means and includes, if the material is produced as evidence, any material certified as related to the subject of the examination by a competent person and if the material is not produced as evidence or has become illegible for any of the reasons referred to in clause (f) above, the presumption shall be that the material did relate to the subject of the examination.
- (h) "Officer-In-Charge" means Principal of the College concerned where concerned examination is being conducted, or a faculty member duly authorised by him and approved by the University or person appointed as officer-in-charge of examinations, by the University.
- (i) "Co-Officer-In-Charge" means a person duly appointed by the University, to assist the officer-In-charge to conduct the University examinations.

4. Procedure of dealing with the Unfair means Cases at Examination Centre.

During examination, examinees and other students shall be under disciplinary control of the officer-in-charge and co-officer-in-charge. In case of unfair means he / they shall follow the procedure as under :-

- (a) The student shall be called upon to surrender to the officer-in-charge/co-officer in- charge unfair means material found in his or her possession, if any, and his/her answer book.
- (b) Signature of the concerned student shall be obtained on the relevant material and list thereon. Concerned invigilator, co-officer-in-charge shall also sign on all the relevant materials and documents.

- (c) Statement of the student and his/her undertaking in the prescribed format and statement of the concerned Invigilator and co-officer in charge shall be recorded in writing by the officer-in-charge [Appendix-C , Format A & B]. If the student refuses to make statement or to give undertaking the concerned co-officer in charge and officer-in-charge shall record accordingly under their signatures.
- (d) The Officer-in-charge shall take one or more of the following decisions depending upon seriousness/gravity of the case:
- i) Confiscate his/her answer book along with unfair means material, mark it as "suspected unfair means case" obtain the statement in the prescribed format [Appendix-C, Format-A] and if demanded issue him/her fresh answer book duly marked as "Second Answer book."
 - ii) Obtain undertaking from the student in the prescribed format [(Appendix C, Format-C] to the effect that decision of the concerned competent authority in his/her case shall be final and binding and allow him/her to continue with his/her remaining examinations.
 - iii) In the case of impersonation or violence, expel the concerned student from the examination and not allow him/her to appear for remaining examination and report the action taken to the Director, Board of Examinations& Evaluation.
 - iv) May report the case to the concerned Police Station in a prescribed format [Appendix-C-Proforma - A) as per the provisions of Maharashtra Act. No. XXXI 1982- An Act to provide for preventing malpractices at University, Board and other specified examination. The information of prosecution shall be sent immediately to the Director, Board of Examination & Evaluation in the prescribed proforma [Appendix x -C - Proforma-B]
 - v) All the materials and list of material mentioned in sub-clause (a) and the undertaking with the statement of the student and that of the Invigilator as mentioned in sub clause (b) and (c) and the answer books/s shall be forwarded by the Officer-in-Charge, along with his report, to the Director, Board of Examinations and Evaluation in a separate and confidential sealed envelope marked "Unfair means case."
 - vi) In case of unfair means of oral type the invigilator and / or co-officer in charge or concerned authorised person shall record the facts in writing and shall report the same through the officer-in-charge to the Director, Board of Examinations and Evaluation.

5. Procedure to be followed by Examiner during Assessment.

If the examiner at the time of assessment of answer books suspects that there is a prima-facie evidence that the student/s whose answer book/s the examiner is assessing appears to have resorted to unfair means in the examination, the examiner shall forward his/her report, along with the evidence and his/her opinion to the Chief Officer of CAP Centre. He shall forward the case in separate sealed envelope marked as "Suspected unfair means case," to the Director, Board of Examinations & Evaluation.

6. Procedure to be followed by the Examination Section of University.

- a) Case of the unfair means having prima-facie reported to the University by the officer in charge / Co-officer in charge and / or the Chief Officer of CAP Centre shall be enquired into by the Committee appointed by the Board of Examinations & Evaluation. In the event cases of unfair means reported through any other sources, the Director, Board of Examinations & Evaluation/ the Concerned Officer at the Examination Section of the University shall scrutinize the case, collect preliminary information and if satisfied that there is a prima-facie case, he shall place the same before the Unfair means enquiry Committee for further investigation. The Concerned Officer of the Section / the Director, Board of Examinations & Evaluation through which the case has originated or the case is pertaining to, shall be the Presenting Officer of the case before the enquiry Committee, Police Authorities and Court of Justice and shall deal with the case till it is finally disposed off.
- b) Examination Result of the concerned students involved in such cases shall be withheld till the Director, Board of Examinations & Evaluation takes final decision in the matter and the College / Institution to which he/she belongs to, shall be informed accordingly.

7. Appointment of Unfair means Enquiry Committee.

- a) For the purpose of investigating unfair means resorted to by students at the University examination, the Board of Examinations & Evaluation shall constitute a committee in terms of the provisions made under Section 48(5)(a) of the Maharashtra Public Universities Act- 2016.
- b) The Unfair means enquiry Committee will function as a recommendatory body and submit its recommendations in the form of a report to the Vice-Chancellor who will issue final orders with regard to the penal action to be taken against the students after taking into account the reported facts and findings of the case by the Committee and after ensuring whether reasonable opportunity has been given to the concerned implicated student in his/her defence,

- c) The Director, Board of Examinations & Evaluation shall proceed to implement the decision of the Vice-Chancellor.

8. Procedure of the Committee shall be as under.

- a) In respect of cases of unfair means and malpractices, as reported by the officer in charge of Examination Centre the enquiry committee shall adhere to the computerised procedure of enquiry and punishment, as approved by the Board of Examinations & Evaluation as "A Computerised Procedure of Deciding the Cases of Unfair means and Malpractices in the University Examinations", appended herewith as Schedule-I Such cases shall be dealt with by the approved and authorised panels of categorizers & Foil Categorizers and if required by the Third Categorizers and / or the Committee itself. The categories of unfair means and malpractices shall be decided as prescribed in "Appendix-A. The Committee shall recommend to the Vice- Chancellor accordingly.
- b) The enquiry Committee shall enquire, decide and recommend the punishment, in respect of cases referred to it by the Hon'ble Vice-Chancellor, or the Board of Examinations & Evaluation or Chief Officer of CAP centre or any other person/source.

9. Procedure of Enquiry of Review Appeals & Referred Cases :-

- (a) The Director, Board of Examinations & Evaluation or the Officer authorised by him, shall inform the student concerned in writing of the act of unfair means committed by him/her as proved and the punishment imposed in respect of cases that comes under sub-para (a) of para (8) above.
- (b) The student may appeal for revision of punishment and produce evidence, in support of his/her innocence within a prescribed time limit.
- (c) In respect of the cases of revision and the cases referred to it as per sub-para (b) of para (8) above, the Committee, in the spirit of the principle of natural justice, shall follow the following procedure.
- (i) The Officer concerned shall inform the appellant student/s to be present before the Committee to record his/her say and produce evidence in support of his/ her say regarding the charges levelled and the punishment imposed.
- (ii) The student may appear before the enquiry Committee on a day, time and place fixed for the meeting and give written reply/explanation to the charges leveled on him/her. The Student himself/herself only shall present his/her case before the Committee.

- (iii) Reasonable opportunity, including oral hearing, shall be given to the student in his/her defence before the Committee. The reply/explanation given by the student shall also be considered by the Committee before making final recommendation in the case.
- (iv) After serving a notice, if the implicated student fails to appear before the enquiry Committee on the day, time and place fixed for the meeting, and if the student concerned fails to appear before the committee, the committee shall take decision in his/her case in absentia, on the basis of the available evidence/documents, which shall be binding on the student concerned.
- (v) The Committee shall submit its report to the Vice-Chancellor along with its recommendation regarding punishment to be inflicted or otherwise.

10. Punishment.

- (a) The Vice-Chancellor in the cases of University examinations, after taking into consideration the report of the Committee shall pass such orders as he deems fit including granting the student benefit of doubt, issuing warning or exonerating him/her from the charges and shall impose any one or more of the following punishments on the student/s found guilty of using unfair means.
 - (i) Annulment of performance of the student in full in the examination he/she has appeared for.
 - (ii) Debarring student from appearing for any examination of the University for a stipulated period not exceeding five years.
 - (iii) Debarring student from taking admission for any course in the University or college or Institution for a stipulated period not exceeding five years.
 - (iv) Cancellation of the University or College or Institution Scholarship/s or award/ s or prize or medal etc. awarded to him/her in that examination.
- (b) The quantum of punishment in respect of cases decided and recommended by 48(5)(a) committee.
- (c) The student concerned shall be informed by the officer concerned of the punishment finally imposed on him/her by the Vice-Chancellor under intimation to the college/institution, he/she belongs to.

11. Ordinance No. 17 of 2008 shall stand Repeal from the date of issuance of this Direction.

PART TWO

Malpractices used or lapses committed by any Paper-setter, Examiner, Moderator, Referee, Teacher or any other person connected with the conduct of examination.

1. Powers of Enquiry and Punishment

On receipt of report regarding malpractices used or lapses committed by any paper setter, examiner, moderator, referee, teacher or any other person connected with the conduct of examination held by the University including breach of the rules laid down for proper conduct of examination, the Board of Examinations & Evaluation, in the cases of the University examinations shall have power at any time to institute enquiry and to punish by the Vice-Chancellor such malpractices or lapses by declaring disqualified the concerned paper-setter, examiner, moderator, referee, teacher or any other person connected with the conduct of examination from any examination work either permanently or for a specified period or by referring his/her case to the concerned authorities for taking such disciplinary action as deemed fit as per the rules provided for or in any two or more of the aforesaid ways.

2. Competent Authority

The Vice-Chancellor shall be the competent authority to take appropriate disciplinary action against the paper-setter, examiner, moderator, referee, teacher or any other person connected with the conduct of examination committing lapses or using, attempting to use, aiding, abetting, instigating or allowing to use malpractice/s at the examination/s conducted by the University.

3. Definition: Unless the Context Otherwise Requires: -

(a) "Paper setter, examiner, moderator, referee and teacher" means and includes person/s duly appointed as such for the examination by the competent authority and the term "any other person connected with the conduct of examination" means and includes person/s appointed on examination duty by the competent authority.

(b) Malpractices/lapses includes one or more of the following acts or omissions on the part of the person/s included in (a) relating to the examination :-

(i) Leakage of question/s or question paper set at the University examination before the time of examination/s.

(ii) Examiner/Moderator intentionally awarding more marks to student in assessment of answer books, dissertation or project work to which the student is not entitled or assigning less marks to the student to which the student is entitled.

(iii) Paper-setter omitting question, Sr. No. of question, repeating question/s in the same/different sections or setting question/s outside the scope of syllabus.

- (iv) Examiner / Referee showing negligence in detecting malpractice used by students.
 - (v) Invigilator, co-officer in charge, officer-in-charge showing negligence/apathy in carrying out duties or aiding /abetting/allowing/instigating students to use malpractice/s.
 - (vi) Or any other similar act/s and or omission/s which may be considered as malpractices or lapses by the competent authority.
- (c) "Malpractice or lapse relating to examination" means and includes directly or indirectly committing or attempting to commit or threatening to commit any act of unfair means, fraud or undue influence with a view to obtaining wrongful gain to him/her or to any other person or causing wrongful loss to other person/s or omitting to do what he/she is bound to do as duties.
- (d) "College" means conducted, constituent or affiliated college or recognised institution of a University.

4. Investigating Committee.

The Committee appointed by the Board of Examinations & Evaluation under the provisions of Section 48(5)(a), of the Maharashtra Public Universities Act, 2016, to investigate unfair means resorted to by student/s at the University examinations shall also investigate the cases of malpractices used and/or lapses committed by the paper-setter, examiner, moderator, referee, teacher or any other person connected with the conduct of examinations at the University examinations.

5. Procedure for Investigation

- (a) The cases of alleged use of unfair means or lapses committed by the paper-setters, examiners, moderators, referees, teachers or any other persons connected with the conduct of examinations, reported to the University shall be scrutinized by the Director, Board of Examinations and Evaluation/ the concerned Officer at the Examination Section of the University, collect preliminary information and then shall submit the said case with his primary report to the Unfair means enquiry Committee for further investigation and recommendations to the Vice-Chancellor. The Concerned Officer through which the case has originated or the case is pertaining to, shall be the Presenting Officer of the case before the enquiry Committee, Police Authorities and Court of Justice and shall deal with case till it is finally disposed off.
- (b) The Competent Officer authorised in this behalf, shall inform the implicated person (paper-setter, examiner, moderator, referee, teacher or any other person connected with the conduct of examination) in writing of the act of malpractices used and/ or lapses committed by him/her at the examination and shall ask him/her to be present before the enquiry Committee.

- (c) The concerned person may appear before the enquiry Committee on a day, time and place fixed for meeting and submit written reply/explanation to the charges levelled against him/her therein. The concerned person himself/herself only shall present his/her case before the Committee.
- (d) The documents that are being taken into consideration to be relied upon for the purpose of proving charge/s against the concerned person shall be shown to him/ her by the enquiry Committee, if he/she presents himself/herself before the Committee.
- (e) Reasonable opportunity, including oral hearing, shall be given to the concerned person in his/her defence before the Committee. The reply/explanation given by the concerned person shall also be considered by the Committee before making final report/recommendation.
- (f) The Committee should follow the above procedure in the spirit of principle of natural justice.
- (g) If the concerned person fails to appear before the Committee, on the day, time and place fixed for the meeting of the Committee shall take decision in his/her case in his/her absentia on the basis of whatever evidences/documents which are available before it and same shall be binding on the concerned implicated person.
- (h) The Committee shall submit its report to the Vice-Chancellor along with its recommendations regarding punishment to be inflicted on the concerned person or otherwise, after taking into consideration the categories prescribed in "Appendix B" of this Direction.

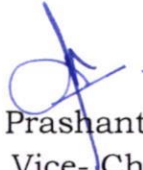
6. Punishment

- (a) The Vice-Chancellor, after taking into consideration the report of the Committee, shall pass such orders as it deems fit including granting the implicated person benefit of doubt, issuing warning or exonerating him/her from the charge/s and shall impose any one or more of the following punishments on the implicated person found guilty of using malpractice/s or committing lapses at the examination :-
 - (i) Declaring disqualified the concerned paper-setter, examiner, moderator, referee, teacher or any other person connected with the conduct of examination, from any examination work either permanently or for a specified period.
 - (ii) Referring his/her case to the concerned disciplinary authorities i.e. Management of the College/Institution for taking such disciplinary action as deemed fit as per the rules governing his/her service conditions.
 - (iii) The Director, Board of Examinations & Evaluation or the Officer authorised in this behalf, shall inform the concerned person of the decision taken in his/her case and the punishments imposed on him/her.

- (iv) An appeal made within 15 days of imposition of the punishment, other than the punishment referred to in sub-para (ii) above, shall lie with the Vice-Chancellor and his decision in the appeal shall be final and binding. If the case is pertaining to the decision of the Management of College or Institution, their decision in the appeal shall be final and binding.
- (v) The Competent Authority shall supply a copy of the relevant extract of factfinding report of the inquiry committee, as well as the documents relied upon (not strictly confidential) pertaining to his/her case to the appellant / petitioner, if applied for in writing.
- (vi) The court matters in respective cases of malpractices/lapses should be dealt with by the respective competent authority.
- (b) As far as possible, the quantum of punishment shall be as prescribed, category wise, in Appendix-B of this Direction.

Gadchiroli.

Date :- 27.4.2023.


(Dr. Prashant S. Bokare)
Vice-Chancellor

A Computerised procedure of deciding the cases of unfair means and malpractices in the university Examinations.

CONTENTS

Sr. No.	Particulars	Page No.
1	Procedure of Working	1 to 5
2	Annexure-I	Incorporated in Appendix-A
3	Annexure-II	6
4	Annexure - III	7
5	Annexure - IV	8
6	Annexure - V	9
7	Annexure - VI	10
8	Annexure - VII	11