

SUPREME COURT OF INDIA

Council For Indian School Certificate Examination

Vs.

Isha Mittal

(S.B. Bharucha, Ruma Pal and S. V. Patil JJ.)

05.05.2000

ORDER

S.P. BHARUCHA, J.

1. Leave granted.

2. The notice that was issued on the Special Leave Petition stated that the matter might be disposed of at this stage by an order setting aside the order under challenge and restoring the Special Appeal to the High Court for reconsideration.

3. The order under challenge was passed in an appeal against interim orders on the respondent's writ petition. The order states :

... Actually, the relief which the Court could have granted finally has been granted by means of the interim order. If the career of the student had not been involved, this Court would have certainly interfered with such orders, but after the declaration of the result and issuance of the marks sheet, the petitioner might have taken admission in any University or College. Hence, it would not be appropriate for this Court to allow this Special Appeal because the entire career of the student would be adversely affected.

In view of the aforesaid reason only, we dismiss the appeal but observe that this special appeal has been dismissed considering the facts and circumstances of the present case only and it would not be a precedent for similar other cases.

4. It is the obligation of the High Court to decide the matters before it in accordance with law. If the law was, as the High Court observes in the passage quoted above, in favour of the appellant before it, it was obliged to make an order in favour of the appellant. Considerations of equity cannot prevail and do not permit a High Court to pass an order contrary to the law.

5. We do not make any observations in regard to the merits of the matter but, having regard to what moved the High Court to pass the order it did, we think that the Special Appeal should stand restored to the file of the High Court to be decided according to law and with due regard to what we have stated.

6. It would also be in the fitness of things that the writ petition itself should be disposed of expeditiously.

7. The appeal is allowed. The order under appeal is set aside and Special Appeal No. 277/99 is restored to the file of the Lucknow Bench of the High Court at Allahabad for being heard and disposed of afresh.

8. No order as to costs.