

CASE NO.:  
Appeal (civil) 2816 of 2008

PETITIONER:  
State of Uttar Pradesh and Ors

RESPONDENT:  
Anand Singh

DATE OF JUDGMENT: 16/04/2008

BENCH:  
B.N. AGRAWAL & G.S. SINGHVI

JUDGMENT:  
JUDGMENT  
O R D E R

CIVIL APPEAL NO. 2816 OF 2008  
(Arising out of S.L.P. (C) No.9506 of 2007)

Heard learned counsel for the parties.  
Delay condoned.  
Leave granted.

It appears that in B.T.C. Entrance Examination, 2000, respondent-Anand Singh and one Dhiraj Kumar Mishra had also appeared and a waiting list was prepared. In the waiting list at serial No.1, name of the respondent was mentioned and in waiting list No.2, that of Dhiraj Kumar Mishra. A complaint was made before the learned Single Judge of the High Court that in spite of the fact that name of respondent was at Serial No.1 in the waiting list, Dhiraj Kumar Mishra, whose name was at Serial No.2., was granted admission.

Learned Single Judge of the High Court allowed the writ petition and directed that respondent shall be granted admission in the vacancy available in the year 2003. The said order has been confirmed by the Division Bench. Hence, this appeal by special leave.

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The stand of the appellant is that waiting list was prepared according to roll numbers and not as per merit. It has been stated that respondent had secured 147.64 marks, whereas Dhiraj Kumar Mishra had secured 159.34 marks. The roll number of the respondent was 366213 and that of Dhiraj Kumar Mishra 366772. As Dhiraj Kumar Mishra had secured higher marks, he had a preferential claim for admission and was rightly admitted. This being the position, learned Single Judge of the High Court was not justified in allowing the writ petition and the Division Bench should not have confirmed the same.

Accordingly, the appeal is allowed, impugned orders are set aside and writ petition filed by respondent before the High Court is dismissed.