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C.A.No. 3533 OF 1998

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3533 OF 1998@@  
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The State of U.P. & Anr. .. Appellants

Vs.

Mahesh Chand Bhatt .. Respondent

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A writ petition had been filed by the respondent herein before the High Court claiming regularisation of his services in the office of the Chief Electoral Officer and Directorate of Elections. The High Court allowed the writ petition and gave a direction to treat the respondent as stenographer and pay him the same salary which was being paid to stenographers and also to consider his case for regularisation in accordance with the rules. The matter was carried in appeal to this Court. This Court by an order dated 30.8.1996 modified the order made by the High Court so far as treating the respondent as stenographer was concerned and the same was deleted and also gave a direction to consider the case of the petitioner (respondent herein) for regularisation in accordance with the rules but subject to the availability of the post. The appellants (respondents therein) having considered whether the post was available or not and having taken a decision on the matter pursuant to the

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order in writ petition, we do not think the High Court should have either sat on the contempt side or modified its order in a proceeding already concluded before it and passed a further order of the nature which is under challenge. The High Court ignored the order made by this Court in Civil appeal though adverted to it in so far as the direction that had been given by this Court is concerned and gave a fresh direction which is wholly impermissible in law. Hence, the order made by the High Court is set aside and the application filed by the respondent for initiation of the proceedings under Article 215 also stands dismissed. However, it is open to the respondent to independently challenge the order made by the authorities in regard to his representation for regularisation of services or otherwise in appropriate proceedings, if permissible under law. The appeal is allowed in the terms stated above. There will be no order as to costs.

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