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C.A.No. 3632 OF 1999
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
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.....L.....I.....T.....T.....T.....T.....T.....T.....J.....
ITEM NO. 104 COURT NO. 7 SECTION XI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 3632/1999

Banaras Hindu University and Anr. .. Appellant (s)

Vs.

Kavita Ghai .. Respondent(s)

(With office report)

DATE : 1.8.2001 : This/These matter (s) was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE SHIVARAJ V PATIL

For Appellant (s) : Mr. Amitesh Kumar, Adv. for
Mr. L.R. Singh, Adv.

For Respondent (s) : Mr. K.L. Mehta & Co. (NP)

UPON hearing counsel the Court made the following

O R D E R

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.SP2

The appeal is allowed in terms of the signed
order.

.SP1

Charanjit

[Om Prakash]
Court Master

[Signed order is placed on the file]

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3632/1999@@
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Banaras Hindu University and Anr. .. Appellants

Vs.

Kavita Ghai .. Respondent

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The respondent was admitted in Faculty of Arts in the Department of Plastic Arts for the session 1998-1999 on 16.7.1998. However, by a communication sent to her on 13.8.1998 it was indicated that the university had decided to cancel her admission on 29.7.1998 as her admission had been given by mistake. The respondent preferred a writ petition before the High Court.

The High Court being of the view that for no fault of the respondent her admission is sought to be cancelled and therefore directed the respondent to be admitted to the said course, if necessary, by enhancing the number of seats. The grievance now is that the actual number of seats were filled by three general category candidates and one scheduled caste candidate was also admitted in the general category. As the reserved candidate for the university quota was not available a

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scheduled caste candidate from the general category was given admission after making the seat vacant by cancelling the admission of the respondent.

The High Court approached the matter rather in a very technical manner. Vacant seat could have been filled only when in respect of which that would be available and when a seat was not available the respondent could not have been admitted at all to the said course. Immediately on noticing the mistake the appellant took steps to cancel her admission and time gap of a month or so between the date of cancellation and communication by itself cannot be stated to be too large as to create any equity in her favour. In the circumstances the High Court ought not to have interfered with the action taken by the University. Even apart from this fact it is clear that the course commenced for the year 1998-1999. On cancellation of the admission and

even after the direction issued by the High Court this Court having stayed the order made by the High Court the

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respondent has not/admitted in the course. The period of course itself is over and no useful purpose would be served by allowing her to rejoin the course. In the circumstances the order made by the High Court shall stand set aside. The appeal is allowed.

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[S. RAJENDRA BABU]@@
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[SHIVARAJ V PATIL]@@
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New Delhi,@@
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August 1, 2001 @@
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