

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

Petition(s) for Special Leave to Appeal (Civil) No(s).14322 / 2007

(From the judgement and order dated 12/06 / 2 007 in M A T No. 1373/ 2003 & F M A No. 1522 /2003 of The H I G H C O U R T O F C A L C U T T A)

U N I V E R S I T Y O F C A L C U T T A & O R S. Petitioner(s)

V E R S U S

S W A T I S A H A & A N R. Respondent(s)

(With prayer for interim relief and office report )  
(for final disposal)

Date: 06/03 / 2 009 This Petition was called on for hearing today.

C O R A M :

H O N ' B L E M R. J U S T I C E L O K E S H W A R S I N G H P A N T A  
H O N ' B L E M R. J U S T I C E B. S U D E R S H A N R E D D Y

For Petitioner(s)

Mr. Mahabir Singh, Sr.Adv.  
Mr. Pijush Kr. Roy, Adv.  
Mr.Sunil Kumar Verma,Adv.

For Respondent(s)

Mr. R. K. Gupta, Adv.  
Mr. S.K. Gupta, Adv.  
Mr. Manoj K. M ishra,Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.  
The appeal is allowed in terms of the signed order.

(Sukhbir Paul Kaur)  
Court Master

(Vinod Kulvi)  
Court Master

(Signed Order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIV I L A P P E A L N O . 1 6 0 1 O F 2 0 0 9  
(Arising out of S.L.P. (C) NO. 14322 of 2007)

University of Calcutta & Ors. .... Appellants

Versus

Swati Saha & Anr. .... Respondents

O R D E R

We have heard learned counsel for the parties.

Leave granted.

The Division Bench of the High Court of Calcutta in F.M.A No. 1522 of 2003, while setting aside the order of the learned Single Judge and allowing the appeal of Ms. Swati Saha (Respondent No.1 herein), directed the appellant No.1- University to award seven more marks to the respondent in her marks sheet for answer to Question No. 14 in Group 3A making the group total marks of Respondent No.1 as 91 instead of 84 marks which were secured by her before the addition of seven more marks.

Being aggrieved thereby, University of Calcutta is in appeal before us by granting special leave to appeal.

Having gone through the judgment of the learned Single Judge, we are of the view that the learned Single Judge of the High Court, in exercise of discretionary jurisdiction under Article 226 of the Constitution of India, has rightly refused to interfere with the decision of the University in not awarding extra marks to Respondent No.1 for answer to Question No. 14 of the paper in Group 3A, making the total marks of the Group as 91 instead of 84 marks secured by her in the paper.

The Respondent No. 1 has failed to secure qualifying marks of 90 in one paper of Elective Commerce [GR 2] and also in one paper in GR 3A. It is pertinent to point out that the respondent No.1 had secured 87 marks in one paper of GR 2 and in one paper of GR 3A she secured 84 marks. The Division Bench of the High Court, in our view, has overstepped its jurisdiction in awarding additional seven marks to respondent No.1 in one paper of GR 3A thereby increasing the total marks to 91 from 84 marks secured by the candidate. Respondent No.1 has still not qualified 90 marks in GR2. In these circumstances, the order of the Division Bench of the High Court is bad in law and cannot be sustained as it amounts to interference in academic field and jurisdiction of the University authorities.

As a result thereof, this appeal is allowed. The impugned judgment of the Division Bench of the High Court is set aside and that of the learned Single Judge shall stand revived.

Consequently, the writ petition filed by Ms. Swati Saha stands dismissed.

Parties shall bear their own costs.

(Lokeshwar Singh Panta)

.....J.

(B. Sudershan Reddy)

.....J.

New Delhi,  
March 06, 2009.