

Court No. - 10

Case :- WRIT - C No. - 30269 of 2023

Petitioner :- Prabhat Kumar And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ram Bali

Counsel for Respondent :- C.S.C.

Hon'ble Kshitij Shailendra,J.

1. Heard Sri R.K. Mishra, holding brief of Sri Ram Bali, for the petitioners and the learned Standing Counsel for the respondents no.1, 2 and 3.

2. It is contended that a stay application filed along with statutory appeal under Section 12-D of the Societies Registration Act, 1860 is pending before the Commissioner, Azamgarh Division, Azamgarh since 21.10.2022 and, therefore, a mandamus may be issued directing the Commissioner to decide the stay application.

3. Learned Standing Counsel submits that the Commissioner has no power to pass any interim order pending appeal, however, he does not dispute that long pendency of appeal may be prejudicial to the interest of the parties concerned.

4. The Court has perused the memo of appeal which contains a prayer for setting aside the order dated 12.04.2022 and also to condone the delay in filing the appeal.

5. Considering the facts and circumstances of the case, the writ petition is **disposed of** directing the Commissioner, Azamgarh Division, Azamgarh (respondent no.2) to consider the petitioner's application for condonation of delay in filing the appeal strictly in accordance with law and in case the delay is condoned, the Commissioner shall decide the appeal itself **on or before 15.04.2024** after providing full opportunity of hearing to the petitioner and the respondent no.3.

6. It is made clear that this Court has not applied its mind either on the delay condonation application or merits of the appeal and consideration of delay aspect as well as merits of the appeal is at the wisdom of the Commissioner concerned.

7. The petitioner is directed to file a certified copy of this order before the Commissioner, Azamgarh Division, Azamgarh

(respondent no.2) **on or before 07.12.2023.**

Order Date :- 17.11.2023

AKShukla/-