

Court No. - 6

Case :- WRIT - C No. - 30055 of 2023

Petitioner :- Manoj Kumar Jaiswal

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

Counsel for Petitioner :- Amrendra Pratap Singh, Mayank Singh, Sr. Advocate

Counsel for Respondent :- Dhananjay Awasthi

Hon'ble Mrs. Manju Rani Chauhan, J.

The petitioner has filed instant writ petition with a prayer to quash the impugned order dated 12.07.2023 passed by second respondent deciding the application of the petitioner treating it to be an appeal, and with a further prayer to remand the matter back to second respondent who is an arbitrator, and issue a direction to him to decide the same in accordance with law.

Learned counsel for the petitioner submits that proceedings of arbitration pursuant to letter dated 22.10.2021 were initiated, therefore, Writ-C No. 1243 of 2022 was filed seeking mandamus commanding the respondents to conclude the said proceedings, wherein a Coordinate Bench of this Court by order dated 09.02.2022 directed the third respondent to forthwith refer the matter to the arbitrator for decision in accordance with law desiring that arbitrator will conclude the proceedings expeditiously, preferably within six months from the date of production of a copy of said order. He further submits that in compliance with the aforesaid order, the petitioner approached the third respondent along with a certified copy of the order placing his representation accordingly. Learned counsel for the petitioner next contends that instead of referring the matter to the arbitrator, the third respondent decided the matter treating the application of the petitioner as appeal and passed the order impugned thereon. Thus, the said order is in teeth of the order

passed by this Court dated 09.02.2022. He further submits that after the proceedings are decided by an arbitrator, there is a remedy of filing an appeal, however, in such a situation, where order impugned has been passed treating the application of the petitioner as an appeal, the same would be in violation of the principles of natural justice as right to prefer appeal against the order passed by an arbitrator would be forfeited. Therefore, the impugned order may be quashed remanding the matter back to the arbitrator to decide the same in accordance with law, as directed by previous order of the Coordinate Bench dated 09.02.2022.

Sri Vinod Kumar Singh, learned Advocate holding brief of Sri Dhananjay Awasthi, learned counsel for the respondents states that he has no objection if the aforesaid matter is remanded back.

In view of the above, the order impugned dated 12.07.2023 is quashed. The matter is remitted to second respondent to decide it afresh after considering on merits expeditiously, preferably within a period of six months from the date of production of a certified copy of this order.

It is made clear that this Court has not expressed any opinion on merits, the second respondent shall pass the order independently and in accordance with law.

The writ petition stands allowed accordingly.

No order as to costs.

Order Date :- 16.10.2023

DS