

Chief Justice's Court

Case :- WRIT - C No. - 34725 of 2023

Petitioner :- Virendra Singh Negi

Respondent :- The State Of Up And 5 Others

Counsel for Petitioner :- Ashok Kumar Pandey

Counsel for Respondent :- C.S.C.,Ravi Prakash Pandey,Satendra Tirpathi

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Ashutosh Srivastava,J.

1. Heard Sri Ashok Kumar Pandey, learned counsel for the petitioner, learned standing counsel for the State-respondents and Sri Ravi Prakash Pandey, learned counsel for respondent nos. 2 and 3.
2. Petitioner had earlier approached this Court by means of writ petition being Writ C No. 8639 of 2023 (Virendra Singh Negi Vs. Ghaziabad Development Authority and Others), which was disposed of vide order dated 23.03.2023 directing the petitioner to file statutory appeal before the concerned authority. After the order of this Court, the petitioner preferred an appeal before the Commissioner. The appeal preferred by the petitioner has been dismissed by the Commissioner vide order impugned dated 19.05.2023 in a mechanical manner stating therein that the relevant provisions of the law and Government Orders have not been quoted.
3. Learned counsel for the petitioner submits that the order impugned is bad in the eye of law and does not disclose any application of mind and even assuming there was some lacunae on the part of the petitioner to mention the provisions of the law, the Authority was obliged to decide the appeal on merits.
4. Learned State counsel submits that after quashing the order impugned, the matter be remitted back to the authority to decide the case on its own merits considering all the aspects of the case.
5. We have heard learned counsel for the parties and perused the order impugned.
6. The order impugned does not show any application of mind and

appears to have been passed on misconceived facts. Even assuming that certain provisions of law have not been mentioned, that does not authorize the appellate authority to decide the appeal solely on the ground that the appeal is not maintainable.

7. The order impugned dated 19.05.2023 is bad in the eye of law and the same is quashed.

8. The writ petition is allowed.

9. The appellate authority is directed to decide the appeal afresh on its own merits ignoring the technicalities by a detailed and speaking order in accordance with law.

10. It is also made clear that the appellate authority shall not draw any adverse inference from this order and shall pass the order strictly in accordance with law.

Order Date :- 1.11.2023

SK

(Ashutosh Srivastava,J.) (Pritinker Diwaker,CJ.)