

Chief Justice's Court

Case :- SPECIAL APPEAL No. - 407 of 2023

Appellant :- Rajiv Sharma

Respondent :- State Of U.P Thru. Addl. Chief Secy. Deptt. Housing And Urban Plann. Civil Sectt. Lko. And Others

Counsel for Appellant :- Rakesh Bajpai, Ashok Shukla

Counsel for Respondent :- C.S.C., Gaurav Mehrotra

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Rajan Roy, J.

1. Heard Sri Rakesh Bajpai, learned counsel for the appellant, Sri Amitabh Kumar Rai, learned Addl. C.S.C. for the State and Sri Gaurav Mehrotra, learned counsel for respondent no.3.

2. This special appeal is against an interim order dated 04.08.2023 by which interim relief application of the appellant - petitioner has been rejected after hearing the parties.

3. The contention of learned counsel for the appellant is that while rejecting the interim relief application, the merit of the matter has been decided finally, therefore, the interim order has the trappings of a final judgment. We are not convinced with this argument as we find that in the process of deciding the interim relief application, mere prima facie observations have been made as to the merits of the case. These observations are obviously subject to final hearing and final decision in the writ court. Any observations would not be binding at the time of final hearing. Therefore, we are of the opinion that this appeal need not be entertained. The writ court has already ordered for exchange of pleadings. Let the same be exchanged as per the order impugned herein. Thereafter, the matter be listed for final hearing. Moreover, we find that promotion in question is only an officiating one and not a regular one.

4. The appeal is disposed of with these observations without interfering with the interim order but without prejudice to the rights of the parties herein at the time of final hearing of the petition. It is open for the appellant counsel to move an application for expediting hearing of the writ petition after exchange of pleadings.

Order Date :- 18.8.2023

Shanu/-

(Rajan Roy, J.) (Pritinker Diwaker, C.J.)