



2024:UHC:8000-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE MR. MANOJ KUMAR TIWARI
AND
HON'BLE MR. VIVEK BHARTI SHARMA, J.

SPECIAL APPEAL No.340 of 2024

Prakash Chandra Brijwasi ..Appellant

Versus

State of Uttarakhand and others ..Respondents

Counsel for the appellant : Mr. Sanpreet Singh Ajmani, learned counsel.

Counsel for State Mr. S.S. Chaudhary, learned Brief Holder.

JUDGMENT : (per Mr. Manoj Kumar Tiwari, A.C.J.)

This intra court appeal is filed by the appellant challenging the order dated 04.10.2024, passed by the learned Single Judge in WPMS No.2734 of 2024. The operative portion of the impugned order is extracted below:-

“5. In the meantime, petitioner is given four weeks’ time to deposit the entire amount due against him with the competent authority of the State Government. Till then, status quo, as on date, shall be maintained in the matter.”

2. Chapter VIII Rule V of the High Court Rules reads as under:-

“V. Special appeal. An appeal shall lie to the Court from a judgment (not being a judgment passed in the exercise of appellate jurisdiction) in respect of a decree or order made by a Court subject to the superintendence of the Court and not being an order made in the exercise of revisional jurisdiction or in the exercise of its



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power of superintendence or in the exercise of criminal jurisdiction or in the exercise of the jurisdiction conferred by Article 226 or Article 227 of the Constitution in respect of any judgment, order or award - (a) of a tribunal, Court or statutory arbitrator made or purported to be made in the exercise or purported exercise of jurisdiction under any Uttarakhand Act or under any Central Act, with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution, or (b) of the Government or any officer or authority, made or purported to be made in the exercise or purported exercise of appellate or revisional jurisdiction under any such Act of one Judge.

3. From the perusal of the aforesaid provision, it is apparent that special appeal/intra court appeal is maintainable only against the final judgment. The order impugned in this appeal cannot be termed as a final judgment, as by the said order some protection was given to the petitioner for four weeks'. Thus, we do not find any reason to interfere with the impugned order in this appeal. The appellant shall be at liberty to press for interim relief before the learned Single Judge.

4. Accordingly, the appeal is dismissed as not maintainable.

MANOJ KUMAR TIWARI, A.C.J.

VI VEK BHARTI SHARMA, J.

Dt: 24th October, 2024
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