

(1994) 03 SC CK 0084

In the Supreme Court Of India

Case No : Civil Appeal No. 1758 of 1994

State of U.P. and Others

APPELLANT

Vs

Manoj Singh and Others

RESPONDENT

Date of Decision : 11-03-1994

Acts Referred:

Citation : (1994) 2 SCC 522 Supp

Hon'ble Judges : R. M. Sahai, J;A. M. Ahmadii, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. DELAY condoned.

2. SPECIAL Leave granted.

3. HEARD counsel on both sides. The impugned order appears to have been passed ex parte, i.e., before the respondents had filed their counter and the petition was retained as part-heard by the division bench of the High court. However, from the order itself it becomes obvious that the only thing that happened was that the Standing Counsel for the State was present on service of advance copy and he had asked for time to file a counter. He was given a month's time and the petitioner time of three weeks to file a rejoinder. The petition was ordered to be listed for admission on expiry of the said time. In the circumstances, it is difficult to understand how the matter could be described as "part-heard" and retained by the division bench. Such a practice is not desirable as it tends to give rise to avoidable speculation. We, therefore, set aside the impugned order and remit the matter to the High court to be disposed of by an appropriate bench of which the learned Judges who passed the impugned order are not members.

4. The appellants may file the counter within one week in the writ petition pending in the High court, if that has not been done till today. In the meantime, the status quo will be maintained. The matter will be placed before the learned

chief justice to be assigned to the appropriate bench on 21/3/1994. Parties and counsel have been so informed and they will appear before the bench on that date without further notice. The appropriate bench will decide whether a case for grant of interim relief, if any, is made out.

5. The learned counsel for the State submits that we should insist on deposit or furnishing of bank guarantee, but that request may be made before the High Court. The appeal will stand disposed of accordingly with no order as to costs.