

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6932 of 2014

Binayak Choudhary Son of Late Govind Choudhary Resident Of Mourya Nagar
Salepur, Post Office Mirzanhat, P.S.- Habbipur, District- Bhagalpur

.... Petitioner

Versus

1. The State Information Commission, Suchana Bhavan, Bailey Road, Patna
2. The State Information Commissioner, Suchana Bhavan, Bailey Road, Patna
3. The State Human Right Commission, Through Its Secretary, Bailey Road, Patna
4. The Secretary, State Human Right Commission, Bailey Road, Patna
5. The Deputy Secretary, State Human Right Commission, Bailey Road, Patna
6. The State Of Bihar Through The Principal Secretary, Health Department, Government Of Bihar, New Secretariat Building, Bailey Road, Patna- 800001
7. The Principal Secretary, Health Department, Government Of Bihar, New Secretariat Building, Bailey Road, Patna- 800001
8. The Director-In-Chief, Health Services, Government Of Bihar, New Secretariat Patna
9. The Superintendent, Jawahar Lal Nehru Medical College Hospital, Bhagalpur

.... Respondents

Appearance :

For the Petitioner : Mr. Sanjay Kumar Verma, Advocate.
For the Respondent/s: Mr. Anjani Kumar, AAG -4.
Mr. Sanjay Kumar, AC to AAG -4.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-11-2016

Heard learned counsel for the parties.

The prayer in the writ petition is for a direction to the State Information Commission (hereinafter referred to as the 'Commission') to direct the Principal Secretary, Department of

Health, Government of Bihar, to provide the information as sought by the petitioner under the Right to Information Act, 2005 by his requisition dated 19.09.2013.

The petitioner has filed a formal application before the Commission which was sent through registered post on 30.11.2013.

In the considered opinion of the Court, the petitioner having filed an application seeking information on 19.09.2013, the same was in the eyes of law the initial application seeking information and any grievance relating to the same, at the first instance, had to be agitated under Section 19 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') and the invocation of the jurisdiction of the Commission under Section 18 of the Act cannot be so done directly, in view of the said power 'being subject to the provisions of the Act', meaning thereby that it shall subject also to the provisions of Section 19 of the Act, which provides the appropriate forum to the petitioner to approach.

At this juncture, Ms. Anju Mishra, learned counsel, has assisted the Court by drawing its attention to the decision of the Hon'ble Supreme Court in the case of **Chief Information Commissioner and Anr. Vs. State of Manipur & Anr.** reported as **2012 (1) PLJR (SC) 313**, wherein it has been held that under Section 18 of the Act, only punishment can be awarded, but information can

be sought or directed to be provided only under Section 19 of the Act.

Thus, in view of the aforesaid also, the application of the petitioner, under Section 18 of the Act, before the Commission, was misconceived.

Faced with the situation, learned counsel for the petitioner prays for withdrawal of the writ application with liberty to file application under Section 19 of the Act before the appropriate authority.

Learned counsel for the State does not oppose.

In view of the aforesaid, the writ application stands disposed off as withdrawn with liberty aforesaid.

If the petitioner moves the appropriate forum under Section 19 of the Act, the same will be considered on its own merits in accordance with law.

(Ahsanuddin Amanullah, J)

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