

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8147 of 2015

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Abhishek Gupta

.... Petitioner

Versus

1. The State of Bihar
2. Pro Vice Chancellor, Patna University, Patna
3. The Registrar, Patna University, Patna.
4. The Examination Controller, Patna University, Patna.
5. Ld. Advocate General, Govt. of Bihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar, Advocate.
Mr. Sudhir Kumar Bijpuria, Advocate.
Amicus Curiae : Mr. S.D. Sanjay, Senior Advocate.
For the State : Mr. Ajay Kumar Sharma, A.C. to P.A.A.G.
For Patna University : Mr. Vivekanand Prasad Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 09-05-2016

The present writ application has been registered consequent to an order passed by the Chairperson, Bihar Human Rights Commission on 5th of May, 2015 wherein, the matter was referred to this Court for examining the Constitutional validity of Section 11 of the Bihar Conduct of Examination Act, 1981 (hereinafter referred to as “the Act”), as it negates the doctrine of Separation of Powers by giving punitive judicial powers to the Executive.

2. When the matter came up for hearing before this

Court on 22nd of April, 2016, a question was framed as to whether State Human Rights Commission has any power to make reference to the High Court and in respect of Constitutional validity of a Statute.

3. Today, learned counsel for the petitioner before the Human Rights Commission states that he be permitted to withdraw the present proceedings with liberty to the petitioner to avail such remedy as is available to the petitioner against the provisions of Section 11 of the Act in accordance with law.

4. In view of the said fact, no orders are called for in the present proceedings. It shall be open to the petitioner before the Human Rights Commission to take recourse to such other remedy as is available to him. As and when such remedy is availed by the petitioner, the same shall be taken up for hearing in accordance with law.

5. With the liberty aforesaid, the Writ Application is dismissed as withdrawn.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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