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ANUBHAV KUMAR CHOUDHARY & ORS.

v.

UNION OF INDIA & ORS.

(Civil Appeal No. 2405 of 2016)

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FEBRUARY 29, 2016

[J. CHELAMESWAR AND ABHAY MANOHAR SAPRE, JJ.]

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Practice and Procedure: High Court while disposing of the appellant's writ petition granted liberty to file representation to the National Thermal Power Corporation (NTPC) but at the same time passed an order that the appellants will have no liberty to move the High Court again for the same cause of action raised therein – Propriety of High Court's order – Held: A right to prosecute the legal remedy in the court of law to challenge any decision of the State or/and its agency is a valuable legal right of the citizen and the High Court could not take away such right from the appellant without assigning any reason – Appellant has every right to take recourse to all legal remedies as are available to him in law in the event any adverse order is passed on his representation or when no orders are passed on his representation once made.

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Partly allowing the appeal, the Court

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HELD: 1. The High Court having rightly granted indulgence to the appellant to file the representation to the NTPC for ventilating his grievance, should have also granted liberty to the appellant to take recourse to all legal remedies to challenge the decision once taken on his representation, if occasion so arises. [Para 8] [36-D]

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2. A right to prosecute the legal remedy in the court of law to challenge any decision of the State or/and its agency is a valuable legal right of the citizen and the High Court could not take away such right from the appellant without assigning any reason. There is apparently no justifiable reason to deny the appellant from taking recourse to the legal remedies to prosecute his grievance in a Court of law in relation to the dispute, which is the subject matter of the representation in case if occasion

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arises in future. That part of the impugned order, which deprives the appellant to move to the Court again in the event his representation is decided against him by the NTPC is set aside. [Paras 9, 10] [36-E-F] A

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2405 OF 2016 B

From the Judgment and Order dated 08.04.2015 of the High Court of Judicature at Patna in CWJC No. 5402 of 2015

Manu Shanker Mishra, Nishant Kumar, Advs. for the Appellants.

The Judgment of the Court was delivered by C

ABHAY MANOHAR SAPRE, J. 1. Delay in filing special leave petition is condoned. Leave granted.

2. This appeal is filed against the final judgment and order dated 08.04.2015 of the High Court of Judicature at Patna in CWJC No. 5402 of 2015 whereby the High Court while disposing of the appellant's writ petition granted liberty to file representation to the National Thermal Power Corporation (NTPC) but at the same time passed an order that the appellants will have no liberty to move the High Court again for the same cause of action raised therein. D

3. We have heard learned counsel for the appellant and have perused the record of the case. E

4. Having heard learned counsel for the appellant, we are inclined to dispose of this appeal after granting leave at the admission stage itself as we are of the view that the same can be disposed of without notice to the other side. F

5. In the light of the order that we have passed, it is neither necessary to set out the facts of the case in detail and as mentioned above nor necessary to issue notice of this appeal to the other side.

6. The impugned order passed by the High Court reads as under: G

"After some arguments, learned counsel for the petitioners seeks permission to withdraw this application in order to enable the petitioners to file representation before the competent authority of the National Thermal Power Corporation (NTPC). While this Court would accord H

A **such leave to the petitioner but it is made clear that the
petitioners will have now no liberty to move this Court again
for the same cause of action raised herein.”**

B 7. The only grievance of learned counsel for the appellant is that
the High Court having rightly granted liberty to the appellant to file the
representation for ventilating his grievance before the NTPC erred in
taking away his right to prosecute his grievance, if occasion arises in
future depending upon the outcome of his representation. It is his
submission that the appellant has every right to take recourse to all legal
remedies as are available to him in law in the event any adverse order is
passed on his representation or when no orders are passed on his
C representation once made. We find force in this submission.

D 8. In our considered view, the High Court having rightly granted
indulgence to the appellant to file the representation to the NTPC for
ventilating his grievance, should have also granted liberty to the appellant
to take recourse to all legal remedies to challenge the decision once
taken on his representation, if occasion so arises.

E 9. A right to prosecute the legal remedy in the court of law to
challenge any decision of the State or/and its agency is a valuable legal
right of the citizen and the High Court could not take away such right
from the appellant without assigning any reason. There is apparently no
justifiable reason to deny the appellant from taking recourse to the legal
remedies to prosecute his grievance in a Court of law in relation to the
dispute, which is the subject matter of the representation in case if occasion
arises in future.

F 10. In the light of foregoing discussion, we allow the appeal in
part and set aside that part of the impugned order, which deprives the
appellant to move to the Court again in the event his representation is
decided against him by the NTPC.

G 11. We, therefore, grant the appellant further liberty to take recourse
to all legal remedies, as may be available to him in law, by approaching
appropriate Court to ventilate his grievance, if occasion arises, in relation
to the dispute for which he is granted liberty by the High Court to file the
representation.