

Rajeev Kumar

Civil Writ Jurisdiction Case No.17261 of 2016

FORUM

Patna High Court

ORDER DATE

18 Oct 2016

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

7. It is, thus, clear that the relevant provisions of the Income Tax Act, 1961, and the Rules framed thereunder need to be examined by the respondent. The Authority, which forms an integral part of the administration of justice, cannot be allowed to remain effectively non-existent for a long time. 8. In our considered view, therefore, Union of India needs to consider the grievance expressed, in this public interest litigation, and decide if the constitution of the Authority and/or the qualifications prescribed for Chairman need any change. This would necessarily involve consultation with the learned Attorney General so as to take appropriate measure, preferably, within a period of eight weeks from today. 9. We may refer to the case of Columbia Sportswear Co. vs. DIT reported in (2012) 11 SCC 224, wherein the Supreme Court has observed that the Authority is a body exercising judicial power conferred on it and is a tribunal. 10. We, therefore, direct, as an interim measure, that until a decision is taken on the issues raised by the writ petitioner, in this public interest litigation, by the Union of India, and till a new Chairman is appointed, all the pending cases before the Authority shall be dealt with by the Member (Judicial), at the Principal Bench, who shall carry out the functions of the Authority as its in-charge Chairman, so that the functioning of the Authority does not remain completely stopped. 11. This writ application stands disposed off with the above observations and directions.

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