

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 18488 of 2016

Date of Decision: January 23, 2017

Vikas Chaudhary and anr.

.....Petitioners

Vs.

Superintendent Engineer and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. Vibhor Bansal, Advocate
for the petitioners.

Mr. Harsh Aggarwal, Advocate for respondents No.1 and 3.

Mr. Mukul Aggarwal, Advocate for respondent No.4.

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M.M.S. BEDI, J. (ORAL)

Petitioners through instant petition under Section 226 of the Constitution of India have sought a writ in the nature of Mandamus directing respondents No.1 and 2 to comply with the order dated February 29, 2016, annexure P-3 passed by the first Appellate Authority under Section 19 (1) of the Right to Information Act, 2005, for short 'the Act'.

The order dated February 29, 2016 reads as follows:-

“Mr. Vikas Chaudhary preferred an appeal under the RTI Act, 2005, on dated 8.2.2016, in which he stated that he has not received any information with reference to his RTI application No.1346 RTI dated 10.12.2015. He further prayed that his appeal may be accepted and Public Information Officer may be directed to provide him requisite information as per demanded in his RTI applications.

In order to decide the appeal, I have examined the appeal as well as RTI application of the appellant and asked incharge RTI regarding the status of RTI application. Accordingly, she reported that the application related with MTP Branch is still pending.

Keeping in view of the above, Superintendent Engineer (B&R)-cum-Public Information Officer B&R Branch is hereby directed to look into the matter personally and ensure that the requisite information be provided to the appellant as per demanded in his RTI application within a period of 07 days from the receipt of the copy of order. Appeal is disposed of accordingly.

In case the appellant is dissatisfied with the present orders, then he can approach the Hon'ble State

Information Commissioner within statutory period as prescribed in the RTI Act, 2005.

Incharge RTI Branch is directed to send the copy of this order to the appellant as well as PIO/APIO. Record be preserved accordingly.”

Counsel for the petitioners submits that the alternative remedy of filing second appeal under Section 19 (3) of the Act will not be available to the petitioners as the petitioners are not aggrieved by the order dated February 29, 2016 but the petitioners seek implementation of the order dated February 29, 2016.

Counsel for the respondents has raised objection that second appeal under Section 19 (3) of the Act is available to the petitioners.

I have heard learned counsel for the petitioners as well as counsel for the respondents. Second appeal under Section 19 (3) of the Act is maintainable within 90 days to the State Information Commission. It is settled principle of law that appeal is a creation of statute which is available to an aggrieved person.

Since the petitioners are not aggrieved by the order dated February 29, 2016, they cannot be required to file an appeal for implementation of the order and seek a direction for coercive methods against the respondents for implementation of the order.

Counsel for the petitioners submits that there is no provision for effective execution of the order except for seeking a disciplinary action against the Public Information Officer or seeking imposition of penalty.

Since the aggrieved party as per order dated February 29, 2016 could be respondents 1 and 3, they have not opted to file any appeal under Section 19 (3) of the Act, therefore, the order dated February 29, 2016 has attained finality qua respondents No.1 and 3.

This petition is disposed of with a direction that order dated February 29, 2016 (annexure P-3), would be complied with by respondents No.1 and 3 within a period of 7 days from today and the information demanded in RTI application would be supplied. In case of non-compliance, it will be open to the petitioners to approach the Appellate Authority again for imposition of penalty and for recommendation of action against the erring authority.

January 23, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.