

103

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-5619-2024

Date of decision: 11.03.2024

Mahender Singh Chawla

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sanjay Ghalawat, Advocate for the petitioner.

Ms. Palika Monga, DAG, Haryana.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing respondent No.3 to comply with the order dated 13.09.2023 (Annexure P-6) passed by respondent No.2.
2. Learned counsel for the petitioner has submitted that the second statutory appeal filed by the petitioner was disposed of vide order dated 13.09.2023 in the following terms:-

“5. In view of above findings, the Commission disposed off the Appeal Case No. 6952 of 2022 with the following directions:-

(i) The SPIO-cum-Sub Divisional Magistrate, Samalkha, District Panipat is directed to re-visit the RTI application dated 15.07.2022 and furnish solicited permissible information on points no. 2, 3, 4, 7, 8, 9, 10, 11 and 12 (duly certified), free of cost, to the appellant, strictly as per the provisions of the RTI Act, 2005 through registered post within fifteen days of the receipt of this order under Intimation to the Commission.

(ii) In case the appellant is not satisfied with the information on any point, he is at liberty to submit a rejoinder to the SPIO to point-out the deficiencies with respect to the Information sought by him.

(iii) The SPIO-cum-Sub Divisional Magistrate, Samalkha, District Panipat shall respond to the appellant's rejoinder and furnish permissible information to the appellant on the basis of available record of the respondent public authority, free of cost within fifteen days of receipt of the rejoinder by removing the pointed out deficiencies under intimation to the Commission.

(iv) Since the First Appellate Authority has failed to decide the appeal within the period as prescribed under the RTI Act, 2005, the First Appellate Authority-cum-Deputy Commissioner, District Panipat is directed to discharge his/her obligations under the RTI Act diligently and ensure that all the RTI appeals received by him/her are decided by issuing speaking order within the specified time limit after affording an opportunity of hearing to the parties.

Announced. To be communicated.

Place: Chandigarh

Dated: 13.09.2023

Sd/-

(Dr. Satyavir Singh Phulia)

*State Information Commissioner,
Haryana."*

3. It is submitted that in spite of the said order and in spite of the petitioner filing the rejoinder (Annexure P-14), the required information has not been supplied to the petitioner. It is further submitted that the State Information Commission vide letter dated 12.10.2023 (Annexure P-10) had asked the State Public Information Officer to send the compliance report in pursuance of the order dated 13.09.2023 and in the said letter, it was stated that in case the same was not done then the penal action under Section 20(1) of the Right to Information

Act, 2005 (hereinafter to be referred as “the 2005 Act”) would be initiated against the State Public Information Officer. It is contended that the information has not been given till date and the order dated 13.09.2023 has not been complied with till date and, therefore, the petitioner had given a representation dated 15.01.2023 (Annexure P-15). It is further contended that in the said representation, prayer had been made for taking action under Section 19(8) of the 2005 Act and also Section 20 of the 2005 Act and a further prayer had been made for registration of FIR which the petitioner is now not pressing. It is also contended that the petitioner would submit an appropriate application before the State Information Commission for taking action under Section 20 and also seeking compensation without making a prayer for the registration of FIR and has submitted that the State Information Commission be directed to consider the said application in a time bound manner.

4. Learned State Counsel has submitted that in case any such application is filed, then the same would be considered by the State Information Commission as expeditiously as possible and in accordance with law.

5. Keeping in view the abovesaid facts and circumstances, the present Civil Writ Petition is disposed of granting liberty to the petitioner to move an application under Section 20 of the 2005 Act making relevant prayers other than the prayer for registration of the FIR and in case, any such application is filed then the same be considered and decided by the State Information Commission as expeditiously as possible and in accordance with law.

11.03.2024

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No