

**2904
2025**

TUESDAY

Court : MB-07
Item : DL-08
Bench : SINGLE
Matter : WPA
Status : DO
ID : 266057
AR : NANDY

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 28011 OF 2022

**ACHARYA KRISNESWARANANDA AVADHUTA
VS.
THE STATE OF WEST BENGAL & ORS.**

MR. MRINAL KANTI GHOSH, ADVOCATE

.....for the Petitioner

MR. RAJA SAHA, ADVOCATE (online)

MR. SANJAY MUKHERJEE, ADVOCATE

MS. B. ROY, ADVOCATE

.....for the Respondent No. 2

1. Challenging the legality and propriety of the order dated 28.02.2022 passed by the Deputy Secretary, West Bengal Information Commission, acting as the second appellate authority under Section 19(3) of the Right to Information Act, 2005 (hereinafter referred to as the 'RTI Act'), the petitioner has preferred the present writ petition. In addition, the petitioner has prayed for a direction upon the authority to dispose of the second appeal on its merits.
2. The petitioner submitted an application under Section 6 of the RTI Act, seeking certain information from the State Public Information Officer and Deputy Secretary, Home and Hill Affairs Department. However, despite receipt of the said application, no information was furnished to the petitioner. This inaction compelled the petitioner to file an appeal under Section 19(1) of the RTI Act before the first appellate authority.
3. The first appeal was disposed of by an order dated 24.12.2021. Aggrieved by the said order, the petitioner filed a second appeal before the

competent authority. According to the petitioner, the prescribed period of limitation for preferring a second appeal is 90 days, and the memorandum of appeal was filed on 14.03.2022, well within the stipulated period. However, instead of disposing of the second appeal on its merits, the authority rejected the same in a mechanical manner, merely citing reasons in a chronological format in the impugned order challenged in the present writ petition.

4. The order under challenge in the present writ petition reveals that certain points were arranged chronologically, from item numbers 1 to 10. In this case, a tick mark was placed on Item No. 7, which may suggest that the second appellate authority concluded that the appeal was not filed within the time prescribed under Section 19(3) of the RTI Act. However, the proviso to Sub-section (3) of Section 9 of the RTI Act stipulates that the period of limitation for filing an appeal is 90 days. Based on a simple arithmetic calculation, it prima facie appears that the appeal was filed within the prescribed 90-day period.
5. No order has been passed indicating whether, in the event the second appeal was filed belatedly, any prayer for condonation of delay was made, or whether the explanation provided to justify the delay was deemed insufficient or unacceptable.
6. Mr. Raja Saha, learned Advocate representing the Commission, appears via virtual mode and submits that the appeal has not been dismissed solely on the ground of being time-barred, but also on other grounds. He emphasized point No. 1, which indicates that the 'Action taken by/information

provided by the public authority has been accepted by the Commission.

7. However, it is unclear to this Court how an Adjudicating Authority, having concluded that an action is time-barred or belated, can then proceed to examine the merits of that action and determine whether the order impugned in the appeal is justified.
8. Furthermore, the manner in which the second appellate authority has disposed of the appeal indicates a complete lack of application of mind. A tick mark was placed against Serial No. 7, suggesting that the same cyclostyled order is issued by the second appellate authority, with the relevant item being marked based on its applicability to the particular case.
9. The Hon'ble Supreme Court, in a catena of decisions, has deprecated such practices and directed every adjudicating authority to provide reasons for its decisions, so that the reasoning of the authority is clearly reflected. The party who suffers defeat in a proceeding must be informed of the reasons for the adverse decision. The basic tenet of justice, i.e., the principle of natural justice, which forms the cornerstone of any justice delivery system, mandates that a person who suffers an adverse order from an adjudicating authority has the right to know the reasons for the non-acceptance of the submissions made before that authority. Therefore, every adjudicating authority is bound to pass a reasoned and speaking order.
10. Thus, on the one hand, it appears that despite concluding that the action was belated, the concerned authority proceeded to examine the

merits of the case. Furthermore, the authority has passed a non-speaking order.

11. For these two reasons, the order under challenge of this writ-petition is set aside.
12. The Deputy Commissioner, West Bengal Information Commission, acting as the second appellate authority, is directed to dispose of the appeal in accordance with the law. He is directed to first determine whether the appeal is time-barred, and if he finds that the appeal is not time-barred, he shall proceed to dispose of the appeal on its merits by passing a reasoned order.
13. The appeal shall be disposed of within a period of eight weeks from the date, strictly adhering to the observations made in this order and in accordance with the law.
14. With these observations, **WPA 28011 of 2022** is **disposed of**. No order as to costs.

(PARTHA SARATHI CHATTERJEE, J.)

