

No.5/52/2016-1AR
Haryana Government
Chief Secretary's Office
Administrative Reforms Department.

Dated Chandigarh the 08th October, 2018.

To

- (i) All the Administrative Secretaries to Govt., Haryana
- (ii) All the Head of Departments in Haryana.

Subject :- Disposal of First Appeals under the RTI Act, 2005

Sir/Madam,

I am directed to address you on the subject cited above and to inform you that State Information Commission, Haryana has noticed that in many cases following deficiencies has been noticed by the Commission while deciding appeals/complaints:-

- I The first Appellate Authorities under the Right to Information Act, do not dispose of the appeals within the time frame prescribed by the Act;
- II The Appellate Authorities do not examine the appeals judiciously and express their agreement with the decision of the State Public Information Officer mechanically;
- III The State Public Information Officer do not comply with the directions of the first Appellate Authority to furnish information to the appellant;
- IV Sometimes the appeals are not heard by the appellate authority themselves.

2. Section 19(6) of the RTI Act provides that the first Appellate Authority should dispose off the appeal with in thirty days of the receipt of the appeal. In exceptional cases, the appellate authority may take forty five days to dispose off the appeal subject to the condition that he shall record in writing the reasons for delay in deciding the appeal. Therefore, each first appellate authority should ensure that an appeal received by him is disposed off within 30 days of the receipt of the appeal. If, in some exceptional cases, it is not possible to dispose off the appeal within 30 days, its disposal should not take more than 45 days. In such cases, the appellate authority should record, the reasons for not deciding the appeal within 30 days.

3. Deciding appeals under the RTI Act is a quasi-judicial function. It is therefore, necessary that the appellate authority should see to it that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be speaking order giving justification for the decision arrived at.

4. If an appellate authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by the SPIO, he may either (i) pass an order directing the SPIO to give such information to the appellant; or (ii) he himself may give information to the appellant while disposing off the appeal. In the first case the appellate authority should ensure that the information ordered by him to be supplied is supplied to the appellant at the earliest. It would

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however, be better if the appellate authority chooses the second course of action and he himself furnishes the information alongwith the order passed by him in the matter.

5. The State Information Commission has also pointed out that some of the Departments have appointed very junior officer as appellate authorities who are not in a position to enforce their orders. The Act provides that the first appellate authority would be an officer senior in rank to the SPIO. Thus, the appellate authority, as per provision of the Act, would be an officer in a commanding position vis-à-vis the SPIO. Nevertheless, if, in any case the SPIO does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take action against the SPIO. Such competent officer shall take necessary action so as to ensure implementation of the provisions of the RTI Act.

6. You are therefore, requested to bring the above in the notice of all concerned/SPIOs under your control for compliance.

Yours faithfully,

-sd-

(Santosh Kumari),

Under Secretary (Administrative Reforms)
for Chief Secretary to Govt. Haryana
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A copy is forwarded to the Incharge, NIC, Haryana Civil Secretariat 9th floor, Chandigarh with the request to put this letter on the website of this department.

-sd-

(Santosh Kumari),

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✓ A copy is forwarded to the Secretary, State Information Commission, Haryana SCO No. 70-71, Sector-8C, Chandigarh w.e.f. their letter No. 14282/SCIC/2018/EA-1, dated 21.08.2018 for information.

Santosh 8/10/18

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