



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO.24537 OF 2018 (GM-KLA)

BETWEEN:

THE PUBLIC INFORMATION OFFICER
DEPUTY REGISTRAR (ADMINISTRATION)
KARNATAKA LOKAYUKTA
M.S. BUILDING,
DR. B.R. AMBEDKAR ROAD,
BANGALORE - 01.

... PETITIONER

(BY SRI VENKATESH S. ARBATTI, ADVOCATE)

AND:

1. THE STATE INFORMATION COMMISSIONER

2. SRI MUKESH PREMCHAND

... RESPONDENTS

(BY SRI RAJASHEKHAR K., ADVOCATE FOR R-1, R-2 -SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH ORDER DATED 04.01.2018 (ANNEXURE-E) PASSED BY RESPONDENT NO.1 IN APPEAL NO.KIC/7065/APL/2016 CONSEQUENTLY, THE ORDER DATED 15.04.2016 (ANNEXURE-C) PASSED BY THE FIRST APPELLATE AUTHORITY IN APPEAL NO.LOK/RGR/RTI-A/APPEAL-119/2015-16; AWARD THE COST OF THIS WRIT PETITION.



THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The present writ petition is filed by the Public Information Officer seeking to quash the order dated 04.01.2018 passed by the 1st respondent in Appeal No.KIC/7065/APL/2016 at Annexure-E and the order dated 15.04.2016 passed by the First Appellate Authority in Appeal No.LOK/RGR/RTI-A/Appeal-119/2015-16 at Annexure-C.

2. The 1st respondent has dismissed the appeal filed by the Public Information Officer on the ground that the petitioner being the Public Information Officer cannot maintain the second appeal under Section 19(3) of the Right to Information Act ('RTI Act' for short) and the appeal is not maintainable when the appeal under Section 19(1) of the RTI Act is not preferred by the present petitioner and accordingly, dismissed the second appeal of the petitioner.



3. Learned counsel for the petitioner would submit that the issue in the *lis* is squarely covered by the decision of this Court and it is no more *res integra* and would submit that the second appeal under Section 19(3) of the RTI Act by the Public Information Officer is maintainable even in the event no first appeal is preferred under Section 19(1) of the RTI Act and relied upon the judgment of the Co-Ordinate Bench of this Court in the case of **Sri. G.H. Sharanappa Vs. The Commissioner and Others** in **W.P. No.5474/2018** dated **18.11.2022** at paragraph Nos.14 and 15 held as under:

"14. The procedure contemplated under Section 19 is an appellate procedure. A right of appeal is always a creature of the statute. It is valuable statutory right conferred upon an aggrieved person to enter a superior forum for invoking its aid and interposition to correct error of the inferior forum, which is a very valuable right. Therefore, when the statute confers such a right of appeal, that must be exercised by a person who is aggrieved. One aspect is clear that the statute confers the right of appeal to be exercised by any



person aggrieved not confining itself to the refusal or reason to furnish.

15. When a specific remedy is available to the aggrieved party under the Act to prefer an appeal under sub-Section (1) and second appeal under sub-Section (3) of Section 19, in view of specific provision, the Commissioner is not justified in issuing the endorsement to the effect that the petitioner has not exhausted the remedy under Sections 6(1) and 19(1) of the RTI Act, defeating the very provisions of the Act. This Court accepts the arguments advanced by the learned counsel for the petitioner and comes to the conclusion that the appeal under sub-clause (3) of Section 19 of the Act can be filed by the petitioner and the endorsement issued by the 1st respondent is not sustainable."

5. In order to maintain parity, this Court is of the considered view that the writ petition needs to be disposed of in terms of the judgment of the Co-ordinate Bench of this Court in W.P. No.5474/2018, dated 18.11.2022.

6. Accordingly, this Court pass the following:



ORDER

- i. The writ petition is ***allowed-in-part***.
- ii. The impugned order dated 04.01.2018 passed by the 1st respondent in Appeal No.KIC/7065/APL/2016 at Annexure-E is hereby ***set-aside***.
- iii. The parties are relegated to the 1st respondent and the 1st respondent to reconsider the appeal filed by the petitioner under Section 19 (3) of the RTI Act on merits, within an outer limit of ***six months*** from the date of receipt of certified copy of this order, in accordance with law.
- iv. All contentions of the parties are kept open to be urged before the 1st respondent-authority.

Accordingly, the writ petition stands ***disposed of***.

**Sd/-
JUDGE**