

**BEFORE THE EXECUTIVE DIRECTOR AND FIRST APPELLATE AUTHORITY
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

2nd Floor, Jeevan Vihar Building
Sansad Marg, New Delhi - 110 001
Dated: 25th February, 2022

RTI Appeal Registration Nos. ISBBI/A/E/22/00003 and ISBBI/A/E/22/00004

IN THE MATTER OF

Kannan Sundaresan

... Appellant

Vs.

Central Public Information Officer

The Insolvency and Bankruptcy Board of India
2nd Floor, Jeevan Vihar Building
Sansad Marg, New Delhi- 110 001.

... Respondent

ORDER

1. The Appellant has filed these Appeals both dated 4th February 2022, against the responses of the Respondent dated 25th January 2022 with regard to his RTI applications dated 19th January 2022 filed under the Right to Information Act, 2005 (RTI Act) wherein he has requested for name of Official Liquidator of Omnitech Infosolutions Ltd. and Micro Technologies (India) Ltd., respectively, so that he can contact them and see if he can take his money out of liquidation as a shareholder.
2. The Respondent in his response stated that the said companies are neither under liquidation nor under voluntary liquidation as per the provisions of the Insolvency and Bankruptcy Code, 2016 (the Code).
3. In this Appeal, the Appellant has stated that the Respondent has provided him with wrong and misleading information. He has further stated that he visited the MCA-21 Portal and the said companies are, in fact, under liquidation and has again requested for name and contact details of the Official Liquidators in respect of the aforesaid companies.
4. I have carefully considered the applications, responses of the Respondent and the Appeals; and find that the matter can be decided based on the material available on record. Since the subject matters of both the Appeals are common, inextricably interconnected and a common response has been given by the Respondent, I deem it appropriate to dispose of all the Appeals by this common order.
5. Before examining the request, I deem it appropriate to deal with scope of information and right to receive the information under the RTI Act. It is noted that in terms of section 2(f) of the RTI Act '*information*' means "*any material in any form, including records, documents, memos*

e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.” It is relevant to mention here that while the “right to information” flows from section 3 of the RTI Act, it is subject to other provisions of the Act. Section 2(j) of the RTI Act defines the “*right to information*” in terms of information accessible under the Act which is held by or is under the control of a public authority and which can be disclosed subject to exemptions under section 8.

6. The aforesaid definition contemplate providing of material in the forms of records, documents, opinions, advices, etc. which is held by or is under the control of a public authority and not exempted under the provisions of the RTI Act. In this regard, it is also relevant to mention that the Hon’ble CIC in *Mr. Subrata Guha Ray Vs. CPIO*, Appeal No. CIC/SB/A/2016/001025/CBECE-BJ (Order dated 03.03.2017), has *inter-alia* observed that:

“.... under the provisions of the RTI Act, 2005, only such information as is available and existing and held by the public authority or is under control of the public authority can be provided. The PIO is not supposed to create information that is not a part of the record. He is also not required to interpret information or furnish replies to hypothetical questions.”

7. In this case, the Appellant had asked for the names of the Official Liquidators of companies which are not under liquidation / voluntary liquidation under the Code. I also note that the IBBI does not register or regulate Official Liquidators who are officers appointed by the Central Government under the Companies Act, 1956 / 2013. These Official Liquidators are under the administrative charge of the respective Regional Directors. Accordingly, the details regarding them are neither required to be maintained by IBBI nor are they in its control and, therefore, the same cannot be provided by the Respondent.
8. In view of the above settled position of law, I find that the Respondent cannot provide the information as requested by the Appellant which is not held by it and has no control over and cannot be compelled to procure the same from other sources and provide to RTI applicants. Therefore, no interference with response of the CPIO is called for.
9. The Appeal is accordingly disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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