

**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: 9th November, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00044

IN THE MATTER OF

Laksh Krishna

... 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 present Appeal dated 12th October 2022 challenging the communication of the Respondent dated 6th October 2022 with regard to his RTI Application No. ISBBI/R/E/22/00225 dated 12th September 2022 filed under the Right to Information Act, 2005 (RTI Act). In the RTI Application, the Appellant had requested the following information –
“Kindly Furnish The Details Of Liquidation process Of m/s Surana Industries Ltd. The Auction Process Was held On 30th Of August 2022, and I wanted to Know The Status Of the Auction Process Of The m/s Surana Industries Limited.”
2. The Respondent vide impugned communication provided the following information –
“Information sought may be accessed from the following link: <https://ibbi.gov.in/en/claims/inner-process/L27104TN1991PLC020533>”
3. Aggrieved by the response of the Respondent, the Appellant has filed this Appeal and has submitted the following: –
*“With Reference to Registration Number ISBBI/R/E/22/00225, I kindly request you to provide the clear and proper details regarding the transaction of the corporate debtor m/s Surana Industries, Raichur, Karnataka. As On Previous request, as a reply I received a web link from the CPIO, which has no proper information regarding the transaction of corporate debtor, and I am sharing the weblink for your kind reference
Reply:-Reply: Information sought may be accessed from the following link: <https://ibbi.gov.in/en/claims/inner-process/L27104TN1991PLC020533>. there are so many rumours regarding the auction procedures organised by the liquidator, the liquidator failed to allow the site visits the bidders who have shown interests, and more importantly there are rumours that the corporate debtor was sold on Auction and other rumour is that the auction was failed. i kindly request you to share the the status of the auction as such i am not able to reach the liquidator to know the status. In case if its sold on auction to what price that was sold and in case if its not sold also please do provide the information. Its My humble Request to share the details as i am not able to retrieve the satisfactory reply from the link provided by the CPIO.”*

4. I have carefully examined the RTI Application, the response of the Respondent and the Appeal and find that the matter can be decided based on the material available on record. 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.*” The aforesaid definition contemplates providing of material in the forms of records, documents, opinions, advice, etc. It does not include giving opinions on issues raised or providing clarifications or advice to inquiries. Section 2(j) of the RTI Act defines the “*right to information*” in term 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 of the RTI Act. Thus, if the public authority holds any ‘information’ in the form of data, statistics, abstracts, etc. an applicant can have access to the same under the RTI Act subject to exemptions under section 8 and exceptions provided in other sections of the RTI Act.
5. It is also clear that the “right to information” under section 3 of the RTI Act is circumscribed by RTI Act itself as the right is limited within scope of ‘information’ as defined under section 2(f) and is subject to other provisions including those under section 8 of the Act. As stated in the Guide on the RTI Act issued by the DoPT under OM No. 1/32/2013-IR dated 28th November 2013: –

“The Public Information Officer is not supposed to create information that is not a part of the record of the public authority. The Public Information Officer is also not required to furnish information which require drawing of inference and/or making of assumptions; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.”
6. In the instant case, the Appellant has requested for (i) status of auction of the company, (ii) the price at which company was sold and (iii) if not sold, the other information. The Respondent is expected to provide information as available on record and not create any information. I note that the available information has already been provided by the Respondent to the Appellant and he cannot be expected to provide any other information. Same is beyond the scope of ‘right to information’ under section 2(j) of the RTI Act which limits the information to one ‘accessible’ under the RTI Act and ‘*which is held by or under the control of any public authority*’. In this context, I note that the Hon’ble Supreme Court of India in the matter of *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011), inter alia held: “*The RTI Act provides access to all information that is available and existing. ...But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.*” Further, I note that the Hon’ble CIC in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: “*... if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given.*”

7. I note that the Respondent has provided the Appellant with the information which is available with the Respondent with regard to Surana Industries Limited and accordingly, I do not find any reason to interfere with the decision of the Respondent. The Appeal is disposed of accordingly.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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