

**WHOLE TIME MEMBER AND FIRST APPELLATE AUTHORITY
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

7TH FLOOR, MAYUR BHAWAN, NEW DELHI

DATED THE 29th OF MARCH, 2019

Appeal No. ISBBI/A/2019/00022 (F. No. Board – 12011/15/2019 - IBBI)

Arising out of order dated February 25, 2019 under RTI Registration No. ISBBI/R/2019/50009

IN THE MATTER OF

Mr. Avtar Singh Vinayak

..... Appellant

V/s

CPIO, Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan
New Delhi

..... Respondent

ORDER

1. The present Appeal No. ISBBI/A/2019/00/60004 dated 1st March, 2019, received by the office of the First Appellant Authority (**FAA**), Insolvency and Bankruptcy Board of India, New Delhi (**Board**) under the Right to Information Act, 2005 has been preferred by Mr. Avtar Singh Vinayak against the order of the CPIO, Dr. Anuradha Guru of the Board with respect to his RTI request, bearing Registration No. ISBBI/R/2019/00009.
2. Mr. Avtar Singh Vinayak vide his application dated 1st March, 2019 sought the following from the Board: -
 - (i) Information called by the Board from the Resolution Professional of Jaypee Infratech Limited since 9th August, 2017 to till date as per Section 196 (g) and (h) of the IBC, 2016 and consequent reply received from the IRP, Shri Anuj Jain.
 - (ii) Copy of necessary directions / guidelines issued to the Resolution Professional of Jaypee Infratech Limited since 9th August, 2017 to till date as per provisions of the Section 196 (p) of the IBC, 2016 and consequent compliance / reply by the IRP.
 - (iii) To allow inspection of the entire of the entire correspondence including file notings of the Officials of the Board and the Resolution Professional of Corporate Debtor Jaypee Infratech Limited since 9th August, 2017 till date.

In addition, he sought inspection of all the correspondence sent and documents received from the IRP in this regard and then to take requisite documents as per provisions and Rules thereon of the RTI Act, 2005.

3. The Respondent, CPIO, Dr. Anuradha Guru of the Board in reply to the RTI request of the appellant, bearing Registration No. ISBBI/R/2019/00009, opined that:

“S. No. 1, (2) and (3) - The information sought is for the period commencing from 9th August, 2017 till date and as such too wide and voluminous. This would disproportionately divert the resources of the public authority. As such, the applicant may seek specific information, if any, required.”

4. The appellant has preferred the appeal against the order of CPIO and have stated that challenged the above stated order of the CPIO, Dr. Anuradha Guru of the Board, on the ground that the reply of the CPIO is absolutely wrong, misleading and concocted with the apparent intent to suppress/conceal the requisite information.
5. The present RTI appeal has been examined and I have perused the information in respect of the queries raised in the RTI application.
6. The Kerala High Court in the matter of *Treesa Irish vs. Central Public Information Officer & Ors.* [WP(C) No. 6532 of 2006 (C)] has held: *“The Right to Information Act, 2005 only establishes the machinery for supply of information when a citizen exercises his fundamental right to receive information in tune with the above constitutional principles, as is clear from the preamble to the Act, which reads thus:*

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Whereas the Constitution of India has established democratic Republic;

And Whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And Whereas revelation of information in actual practice is likely conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And Whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

Now, Therefore, it is expedient to provide for furnishing certain information to citizens who desire to have it.

Section 3 of the Act lays down that "Subject to the provisions of this Act, all citizens shall have the right to information."

Of course, the Act recognises certain exceptions on sound principles, commensurate with the declaration in the preamble itself. Those are contained in Sections 8 and 9 of the Act. But since supply of information to those who desire to have it is the rule, these exceptions have to be construed strictly to the letter.(emphasis added)"

7. Section 2(j) of the RTI Act, 2005 reads thus:

"Right to Information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to –

- (i) inspection of work, documents, records;*
- (ii) taking notes, extracts or certified copies of documents or records;*
- (iii) taking certified samples of material;*
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device."*

8. Section 7(9) of the RTI Act, 2005 reads thus:

"(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question."

The Kerala High Court in the matter of *Treesa Irish v. CPIO & Ors.* [WP(C) No. 6532 of 2006 (C)] has interpreted Section 7(9) of the RTI Act, 2005 as: *"That Section does not even confer any discretion on a public authority to withhold information, let alone any exemption from disclosure. It only gives discretion to the public authority to provide the information in a form other than the form in which the information is sought for, if the form in which it is sought for would disproportionately divert the resources of the public authority. In fact there is no provision in the Act to deny information on the ground that the supply of the information would disproportionately divert the resources of the public authority. Section*

4 of the Act makes it compulsory on the part of a public authority to comply with the obligations prescribed therein including the obligation under sub section (1)(a), to 'maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through network all over the country on different systems so that access to such records are facilitated' and the obligation under sub section (1)(b), to publish within 120 days from the enactment of the Act the various particulars relating to the public authority described in clauses (i) to (xvii), the object of which is to facilitate easy supply of the information in their possession to those who apply for the same. Further under sub section 2 of section 4, 'it shall be a constant endeavour of every public authority to take steps in accordance with requirements of clause (b) of sub-section 1 to provide as much information suo motu to the public under regular intervals through various means of communications, including internet, so that the public have minimum use of resort to this Act to obtain information'. The difficulties a public authority may encounter in the matter of supply of information are no grounds to deny the information, if that information is available and not exempted from disclosure. Whatever be the difficulties, unless the information is exempt from disclosure, the public authority is bound to disclose the same. The facts that the information is voluminous, if all candidates apply for the information with the available infrastructure it may not be possible to cope up with the request, the authority will have to depute additional manpower to collect and supply the information etc. are not reasons available to the public authority to deny information to a citizen who applies for the same. The public authority can only insist on reasonable fees for supply of the information as per rules prescribed for the same. As such, the flood gate theory sought to be pressed into service by the Standing Counsel for the Public Service Commission is not a defence against supply of information under the Right to Information Act."

9. In view of the above, the request of the appellant for inspection of requisite documents and thereafter obtain copies of the documents is allowed and the CPIO is directed to provide inspection of the available documents with the Board and then to provide copies as per the provisions of the RTI Act, 2005.

10. Accordingly, the appeal is disposed of.

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(Dr. Navrang Saini)

Whole Time Member and First Appellate Authority

Copy to

1. Mr. Avtar Singh Vinayak
2. CPIO, Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, New Delhi