

**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: 22nd May, 2024

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal**

RTI Appeal Registration Number - ISBBI/A/E/24/00011

IN THE MATTER OF

Yogesh Kumar Gupta

... 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

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1. The Appellant has filed present Appeal dated 01st May 2024, challenging the communication of the Respondent dated 25th April 2024 with regard to his RTI Application No. ISBBI/R/E/24/00050 dated 22nd March 2024 filed under the Right to Information Act, 2005 (RTI Act). The information sought in the Application is as follows:
"I have received a Show Cause Notice dated 01/03/2024 under section 219 of the Insolvency and Bankruptcy Code, 2016. This RTI is in relation to the said SCN. You have mentioned that you have written few mails dated 29th Dec 23, 8th Jan 24 and 18th Jan 2024 asking for some information and the same have not been replied by me due to which the above show cause notice has been issued citing non-cooperation from my side. This is quite surprising as I have not received any of the above stated emails with subject -notice of investigation in the matter of Yogesh Kumar Gupta in the CIRP of Antriksh Infratech Private Limited. Therefore, you are requested to provide the following:
 1. To forward the alleged mails with mail header alongwith the IP address from it has been sent earlier.
 2. To allow access to your system to verify from the sent mails.
 3. To send the screenshot from the system from where the mail has been sent.
 4. To forward the alleged mails sent to me from your system."
 2. The Respondent had forwarded pdf copy of e-mails sent to Mr. Yogesh Kumar Gupta. The copy of e-mails provided are dated 18th Jan 2024, 8th Jan 2024 and 29th Jan 2024 and the copies provided are signed by the Respondent.
 3. In this Appeal, the Appellant has stated that his RTI Application that –
"In relation to the captioned RTI Request Registration number SBBI/R/E/24/00050 filed on 22.03.2024 under the Show Cause Proceeding initiated against Applicant by the IBBI, the Applicant had requested to provide the following from the concerned authority :
 1. To forward the alleged mails with mail header along with the IP address from it has been sent earlier.
 2. To allow access to your system to verify from the sent mails.
 3. To send the screenshot from the system from where the mail has been sent.

4. To forward the alleged mails sent to me from your system.

The Concerned authority replied to the above mentioned RTI on 25.04.2024 which is after 33 days from the date of filing therefore, the authority has infringed the provision of section 7 of the RTI Act, 2005.

Further, in the reply the Authority has provided the copies of the mails under dispute and has not provided any other required information as mentioned in points 1-4 above. The reply provided by IBBI was already shared by the authority as supporting to the SCN dated 01.03.2024. Thus, sharing the same mail in the same manner has no relevance. We have specifically required the details to identify the authenticity of the copy of the mails provided by IBBI. We reiterate our query more specifically as under:

- 1. To forward the alleged mails with mail header along with the IP address from it has been sent earlier- IP Address not provided with mail header.*
- 2. To allow access to your system to verify from the sent mails – need specific approval to check the system physically from where the mail has been sent.*
- 3. To send the screenshot from the system from where the mail has been sent.- Screenshot has not been shared*
- 4. To forward the alleged mails sent to me from your system.- we requested to forward those alleged mails from the same system which has sent these mails to me.*

The mails so provided seems to be edited as the structure and the presentation of the same provided are not in the manner when they are generated and extracted from electronic form to PDF. Further, the Authority has failed to provide any of the above-mentioned information as asked for in the RTI. further the authority has taken 33 days just to send the information which is already with me and was provided by them alongwith the show Cause Notice, thereby deliberately delaying the process and that too from a authority which is meant to expedite the whole process.”

4. Before going into merits, it is noted that as per section 7(1) of the RTI Act, the Respondent is required to respond within 30 days of the receipt of the request. As per records, the Application was received by CPIO on 22nd March 2024. However, it was disposed of on 25th April 2024 which is 5 days after the due date. Being CPIO of Public Authority like IBBI, Respondent should be sensitive to timelines and disposal of information request. I would, therefore, encourage and urge the Respondent to take into account the requirements of law while dealing with information requests under the RTI Act and dispose of RTI applications within the prescribed time.
5. 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.

6. With regard to query (1), I note that the Appellant wants the header of the e-mail and the IP address of the system from whom the e-mails were sent. On perusal of the e-mail copy provided, I see that the 'Subject' line is clearly provided. However, the Appellant wants to know the Internet Protocol (IP) address of the computer from which it has been sent. It is noted that the IP address is a confidential address and can be used to trace one's location and online identity. Also, it appears that if a hacker has one's IP address, a port scanner can be used to identify open ports on a device or network and same can cause risk to the entire network. The Respondent cannot be expected to be ignorant of such risks. Also, disclosure of such information can lead to posing threat of the internet security of the State, exempted under section 8(1)(a) of the RTI Act. Also, IP addresses can be used to identify the course of the information, exempted under section 8(1)(g) of the RTI Act. Lastly, such information can cause unwarranted invasion of the privacy of the individual, who is using such IP address. Same is also exempted under section 8(1)(j).
7. With regard to query (2), the request to access the computer from which the e-mails have been sent, does not fall within the scope of 'information' under the RTI Act. The use of the word 'e-mails' in the definition of information cannot be read as giving physical access to the computer through which the e-mail has been sent. Accordingly, providing copy of the e-mail in PDF format is sufficient and this request of the Appellant cannot be accepted under the RTI Act.
8. With regard to query (3), the Appellant wants the screenshot of the e-mails and is not satisfied with the PDF copy provided by the Respondent. Giving a screenshot is not contemplated in the RTI Act. The RTI Act provides for supply of information in the format in which it is held and is under control of the public authority. Creation of a new format of a document or creating a new document does not fall within the scope of RTI Act.
9. With regard to query (4), the Appellant wants the Respondent to forward the e-mails to his system. Forwarding of e-mails is not contemplated in the RTI Act and the RTI Act does not provide for creation of new threads of e-mails. Such an action on the part of Respondent is not contemplated under the RTI Act.
10. The Appeal is, accordingly, disposed of. The appeal is accordingly, disposed of.

Sd/
(Jithesh John)
First Appellate Authority

Copy to:

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