

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

2<sup>nd</sup> Floor, Jeevan Vihar Building  
Sansad Marg, New Delhi- 110001.

Dated: 20<sup>th</sup> February, 2020.

IN THE MATTER OF

Mr. Ishrat Ali

..... Appellant

Vs.

Central Public Information Officer (CPIO)  
Insolvency and Bankruptcy Board of India  
7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market  
New Delhi – 110001.

..... Respondent

**ORDER**

1. Multiple appeals have been filed by the appellant against various orders of the respondent replying to his RTI requests. This common order disposes of all the appeals preferred by the appellant, details of which are under the Table below, as received by the office of this First Appellate Authority (FAA):

Table 1

Sl No.	RTI Registration Number	Date of RTI Request	Date of receipt by IBBI	Date of reply of CPIO	Appeal Number
1.	ISBBI/R/2019/0053	03-12-2019	14-12-2019	06-01-2020	ISBBI/A/2020/00003
		04-12-2019	10-12-2019		ISBBI/A/2020/00002
2.	ISBBI/R/P/20/00003	30-12-2019	03-01-2020	21-01-2020	ISBBI/A/2020/00006
		31-12-2019	03-01-2020		

The appeals are dealt with as follows after perusing all the relevant records:

**ISBBI/R/2019/0053**

2. The appellant requested for the following information in the RTI requests dated 03-12-2019 and 04-12-2019, under section 6 of the Right to Information Act, 2005 (22 of 2005) (Act):

Table 2

Sl. No.	Query of Appellant	Response of Respondent
<b>RTI Application dated 03-12-2019</b>		
1.	<i>Kindly provide me information as regards any Rule/Direction/Guide-line whereby the Hon'ble IBBI cannot take action upon a complaint filed under section 75 and/or section 235-A of the IBC 2016, prior to Application under section 7 having been admitted by the Hon'ble NCLT. Kindly provide me copy of such Rule/Direction/Guide-line if any.</i>	<i>IBBI after forming a prima facie opinion has the discretionary power to dispose of a complaint accordingly.</i>
<b>RTI Application dated 04-12-2019</b>		
1.	<i>Kindly provide me information in the form of copies of the document/s based upon which my complaint was disposed of, including the copy of the note that may have been generated advising/suggesting to dispose of the complaint without taking any action against the Financial Creditor i.e. the Complainee am the copy of the (action taken report) letter vide which the complaint was disposed of.</i>	<i>As per Annexure -I</i>
2.	<i>Kindly provide me information as regards communication, if any, given to the complainant about disposal of his complaint. If yes, kindly provide me a copy of such communication please.</i>	<i>Information was communicated to you in RTI Reg No ISBBI/R/2019/00051.</i>

RTI Application dated 06-12-2019

3. Prior to the RTI application dated 03-12-2019 as shown in Table 2 above, the appellant had filed an RTI request dated 16-11-2019, wherein he had sought information on the action taken by the Insolvency and Bankruptcy Board of India (IBBI) on his complaint to the IBBI to take action under section 75 of the Insolvency and Bankruptcy Code, 2016 (Code), against a financial creditor who had initiated corporate insolvency resolution process

(CIRP) against the appellant's company. To this, the respondent replied *vide* letter No. IBBI/BS/RTI/RTI APP/246/2074 dated 29-11-2019, bearing Registration No: ISBBI/R/2019/00051. Thereafter, the appellant had sent a letter to the respondent dated 26-12-2019, which was in essence a complaint, requesting the respondent to reopen the RTI bearing the same Registration No., viz., ISBBI/R/2019/00051, as he felt that it was disposed of by the respondent erroneously. However, this letter was treated as an RTI request by the respondent even though no fee was attached with it and the reply to this RTI request was given *vide* letter No. IBBI/BS/RTI/RTI APP/246/3133 dated 06-01-2020, bearing Registration No: ISBBI/R/P/20/00001.

4. The appellant thereafter filed the RTI request dated 03-12-2019 which was assigned Registration No: ISBBI/R/2019/00053. Reply to this RTI request was provided by the respondent within the prescribed timeline under the Act. However, the appellant had preferred a first appeal dated 06-01-2020 on the ground that he had not received any response on his RTI request *vide* Registration No: ISBBI/R/2019/00053. The appellant preferred another first appeal dated 10-01-2020 relating to the same request, wherein he clarified that he had already received the reply from the respondent and, therefore, requested the FAA to ignore his earlier appeal dated 06-01-2020. Hence his appeal dated 06-01-2020 is, accordingly, disposed of and subsequent appeal dated 10-01-2020 is hereby dealt with.
5. The appellant has alleged that the information sought by him was denied by the respondent as the information was in the nature of advice/suggestion which was not covered under the definition of "information" as per section 2(f) of the Act. The appellant relies on the reply given in RTI Registration No: ISBBI/R/P/20/00001 dated 06-01-2020, the history of which has already been narrated in para 3 above. On perusal of records, it is found that the reply to the request raised was given in RTI Registration No: ISBBI/R/2019/0053 dated 06-01-2020 as given in Table 2 above. It appears that the appellant is confused as he has been filing multiple RTI applications with the respondent. Since, the records reveal that reply to the information as sought by the appellant was already provided by the respondent, this appeal has no merit and is thus dismissed.

*RTI Application dated 04-12-2019*

6. Reply to the RTI request dated 04-12-2019 was provided to the appellant. It is alleged by the appellant that the reply was not received within the thirty days period as prescribed under section 7(1) of the Act. On perusal of records, it is seen that the RTI request was received

by the respondent on 09-12-2019 and the reply was sent by the respondent via post on 06-01-2020 which is within the prescribed thirty days period. Therefore, on the above grounds, this appeal also fails.

**ISBBI/R/P/20/00003**

7. The appellant has requested for the following information in the RTI requests dated 30-12-2019 and 31-12-2019, under section 6 of the Act and the replies of the respondent are as under:

Table 3

Sl. No.	Query of Appellant	Response of Respondent
<b>RTI Application dated 30-12-2019</b>		
1.	<i>Kindly provide me information in the form of a copy of the recommendation that the Adjudicating Authority sent regarding appointment of the Resolution Professional in respect of the Corporate Insolvency Resolution Process of the Corporate Debtor namely "Mirco Dynamics Private Limited", Pune.</i>	<i>This information is not available.</i>
2.	<i>Kindly provide me Information in the form of a copy of the Confirmation letter that the Hon'ble Board provided towards confirmation of the above mentioned recommendation from the Adjudicating Authority.</i>	<i>This information is not available.</i>
<b>RTI Application dated 31-12-2019</b>		
1.	<i>Kindly provide me information as regards the status of the complaint as mentioned here-in-above.</i>	<i>The complaint has been disposed of and communication issued to the complainant on 27-Dec-2019.</i>
2.	<i>Kindly provide me the Information as regards the Action, if any, that has been taken by the Hon'ble Board against the Complainees i.e. Anagha Anasingaraju, Resolution Professional.</i>	<i>No action contemplated against the IP.</i>

3.	<i>Kindly provide me a copy of the communication vide which the IBBI may have formed an opinion as to whether a Prima Facie case exists which as per Regulation 7(3) of the IBBI (Grievance &amp; Complaint Handling Procedure) Regulation is necessary to be formed within 45 days of the date of receipt of the complaint. ”</i>	<i>This is not applicable.</i>
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In respect of RTI request dated 30-12-2019, the appellant’s case is that in the CIRP of M/s Mirco Dynamics Pvt Ltd, Ms. Anagha Anasingaraju, the Insolvency Professional (IP), has been confirmed as the resolution professional, for which an approval (confirmation) of the IBBI is mandatory under section 22(4) of the Code. As the respondent has replied that ‘information was not available’, the appellant presumes that the said resolution professional is acting unauthorisedly without any approval (confirmation) by the IBBI, and, therefore, the appellant prays that information regarding the confirmation to appoint Ms. Anagha Anasingaraju by the IBBI may be provided to him. In this connection, the respondent submits that the IBBI maintains an updated list of IPs on its website with login ID and password provided for the use of Adjudicating Authorities (AAs) for them verify if any disciplinary proceeding is pending against an IP for the purposes of section 22 of the Code. This facilitates the AAs to satisfy that no disciplinary proceeding is pending against the proposed IP before they are appointed in CIRPs or liquidations. Further, for appointment of an IP as an interim resolution professional (IRP) or Liquidator, a bench-wise list of eligible IPs is made available and the AA may choose any person from that list in case no IRP or Liquidator is proposed by the applicant. Since the various processes under the Code is time bound, this saves precious time which otherwise would have been lost in forwarding a request to the IBBI by the AA and then confirmation given by it. The respondent thus submits that due to this reason, no information regarding the RTI request by the appellant was available and hence the reply.

8. In respect of RTI request dated 31-12-2019, the respondent against Serial No. 3 under Table 3, responded that “*This is not applicable*”. The appellant’s case is that under regulation 7(3) of the Insolvency and Bankruptcy Board of India (Grievance and Complaint Handling Procedure) Regulations, 2017, the IBBI shall form an opinion whether there exists a *prima facie* case within forty-five days of the receipt of a complaint by it. Applying this logic, the appellant pleads that he fails to understand why the respondent replied that it is “not

applicable.” However, the respondent submits that since no action was made out against the IP, no information was “available” to be shared with the appellant. This FAA, however, feels that the relevant noting on the file relating to the disposal of the complaint against the IP could have been shared with the appellant instead of mechanically disposing of the RTI request as “*This is not applicable.*”

9. In view of the above, the respondent is directed to provide the relevant portion of the file noting of the concerned operational Division, by which the Division came to a conclusion that there was no *prima facie* material against the IP to proceed with the complaint made by the appellant, within fifteen days from the date of receipt of this Order. Further, it is seen that an Indian Postal Order (IPO) having serial number 48F 99208 of the value ten rupees has been attached with the appeal dated 10-12-2019 by the appellant. Since no fee is required for a first appeal under the Act and the rules made thereunder, the IPO shall be returned to the appellant immediately. The appeals were received by the FAA on three different dates viz., 10-01-2020; 14-01-2020 and 29-01-2020. Since all the appeals are connected matters and were to be dealt with simultaneously, they are hereby disposed of together.

(Sd/-)

(K. R. SAJI KUMAR)

Executive Director and First Appellate Authority

Copy to

1. Appellant, Mr. Ishrat Ali.
2. Respondent -CPIO, Insolvency and Bankruptcy Board of India  
7<sup>th</sup> Floor, Mayur Bhawan, New Delhi.