

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

2nd Floor, Jeevan Vihar Building,
Sansad Marg, New Delhi- 110 001
Dated: 27th October, 2020

RTI Appeal Registration No. ISBBI/A/E/20/00021

IN THE MATTER OF

Mr. Sanjay Gambhir

..... 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. This appeal is borne out of the application under Right to Information (**RTI**) bearing Registration no. ISBBI/R/2019/50087. The information sought by the appellant under section 6 of the Right to Information Act, 2005 (**Act**) and the reply given by the respondent are as under:

Sl. No.	Information Sought	Reply by CPIO
1.	<i>respected sir, please update the action and reply on the supported complaint. URGENT ACTION</i>	<i>With reference to the complaint/ grievance dated 22.08.2019, it is to inform you that the matter is sub-judice before NCLT, hence the grievance has been disposed of. The same has been conveyed to the complainant vide letter dated 07.10.2019.</i>

2. In this appeal, the appellant has broadly submitted the following:
- The grievance of the appellant against the liquidator in the matter of Forgings Private Limited has not been dealt in *toto* by the CPIO.
 - The liquidator through his reply has misled the CPIO into believing that the matter is *sub-judice* before the NCLT as the matter pending with NCLT pertains to application filed by Indiabulls Housing Finance Limited which has no bearing on the present complaint and the grievance of the appellant.
3. Accordingly, he has requested this FAA to decide the following questions:
- Whether a Financial Creditor is entitled to file before the ROC/MCA for modification of charge of a corporate debtor which is under liquidation under IBC?
 - Whether the liquidator in the case has filed certain forms with ROC/MCA?

- c. What action has been taken by IBBI against the liquidator who is responsible as per appellant?
 - d. It is also requested to review and recall the letter dated 7th October 2019 and to re-adjudicate the File No. COMP-11015/47/2019-IBBI.
 - e. It is also requested to take appropriate action against the liquidator in the matter.
4. In this regard, comments of the respondent were called for. The respondent has submitted that with reference to the complaint / grievance dated 23.08.2019, the grievance has been disposed of as the matter raised therein was *sub-judice* before NCLT and the same had been conveyed to the complainant vide letter dated 07.10.2019.
 5. It may be stated that the FAA has no power or authority under the Act to decide on the aforesaid questions raised by the appellant. In the Guide on Right to Information Act, 2005 issued vide OM No. 1/32/2013-IR dated 28th November, 2013 of DoPT, it is stated that:

*“A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority. It is important to note that only such information can be supplied under the Act that is available and existing and is held by the public authority or is held under the control of the public authority. **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.”***

The observations of the Hon’ble Supreme Court in the matter of *CBSE & Anr. Vs. Aditya Bandopadhyay & Ors.*, SLP(C) NO. 7526/2009 is also relevant, wherein it was held that:

*“... **A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant.** The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”*

This being the position, this FAA finds that the actions requested by appellant is not within the domain of the Act and as such do not fall within the definition of ‘information’ provided at Section 2(f) of the Act. Accordingly, no information is required to be shared with the appellant.

6. With the above finding, the appeal is disposed of.

(Sd/-)
(K. R. Saji Kumar)
Executive Director and First Appellate Authority

Copy to:

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