

**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: 3rd July, 2023

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal Registration No. ISBBI/A/E/23/00025**

IN THE MATTER OF

Ramesh Chandra

... 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 the present Appeal dated 4th June 2023, challenging the communication of the Respondent dated 31st May 2023 in respect of his RTI application no. ISBBI/R/E/23/00061 filed under the Right to Information Act (RTI Act). I have carefully examined the application, the response of the Respondent and the Appeal and find that the matter can be decided based on the material available on record.
 2. It is noted that in his RTI application, the Appellant had requested for the following in respect of the complaints filed against Mr. Vivek Raheja, Resolution Professional -
“1. *Kindly provide documents for inspection was conducted as per INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSPECTION AND INVESTIGATION) REGULATIONS, 2017 or INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (GRIEVANCE AND COMPLAINT HANDLING PROCEDURE) REGULATIONS, 2017.*
2. *Copy of show cause notice issued to Mr. Vivek Raheja as per regulation 2017.*
3. *Copy of reply with supporting documents received from Mr. Vivek Raheja.*
4. *Copy of investigation report*
5. *Inspection report, Disciplinary Committee noting or any other written documents, based on which DC concluded & passed reasoned order.”*
 3. The Respondent has provided the following reply –
“1. *A copy of the Inspection Notice is attached.*
2. *The Inspection Report submitted by Inspecting authority was dealt as per IBBI (Inspection and Investigation) Regulations, 2017 and Show cause notice was issued to Mr. Vivek Raheja, Resolution Professional. The same was disposed of vide DC order dated 17th February 2023 which is available at <https://ibbi.gov.in/en/orders/ibbi>. The disclosure of reply of Mr. Vivek Raheja is exempted in terms of section 8(i)(e) of the Right to Information Act, 2005.*
3. *The disclosure of inspection report is exempted in terms of section 8(i)(e) of the Right to Information Act, 2005.”*
 4. Aggrieved by the same, the Appellant has submitted the following in the Appeal –

“CPIO is covering fraud, cartel between IBBI, Mr. Vivek Raheja. My complaint was filed on 20-03-2021 & as per IBBI guidelines, Investigation should have done with 45 days.

1. Copy of Inspection Notice No IBBI/IP/INSP/2021/70 date 09-04-2021 attached with CPIO IBBI reply, is not related my complaints date 20-03-2021 regarding Mr. Vivek Raheja got RP job through fraud, cartel but general inspection in case of Century Communication Limited & Trading Engineers International Ltd.

2. IBBI is wrapping all frauds, cartel by intimating to check order date 17-02-2023 (i.e. after approx. 2 years of my complaint in 2021), which is not related my complaints of Mr. Vivek Raheja got RP job through fraud, cartel.

I have downloaded order date 17-02-2023, which is related to MSME Status of company & nowhere Mr. Vivek Raheja got Job thru fraud, cartel, is referred. IBBI is abusing RTI act section 8(i)(e) to cover all frauds, corruption, cartel by IBBI team, Mr. Jayanti Prasad, Mr. Vivek Raheja & others.

3. IBBI is wrapping all frauds, cartel, corruption between IBBI Inspection, DC Team, Mr. Jayanti Prasad in name of “The disclosure of inspection report is exempted in terms of section 8(i)(e) of the Right to Information Act, 2005”.

IBBI is abusing RTI act section 8(i)(e) to cover all frauds, corruption, cartel by IBBI team, Mr. Jayanti Prasad, Mr. Vivek Raheja & others.”

5. I have carefully examined the application, the response of the Respondent and the Appeal and find that the matter can be decided based on the material available on record. 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.”* It is pertinent to mention here that the Appellant’s ‘right to information’ flows from section 3 of the RTI Act and the said right is subject to the provisions of the Act. While the “right to information” flows from section 3 of the RTI Act, it is subject to other provisions of the Act. 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. 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.
6. I note that the Appellant asked for the copy of documents for inspection and the Respondent has provided a copy of the notice of inspection issued in the matter. The Appellant, however, is aggrieved that the said inspection notice is ‘not related to his complaint’ but regarding general inspection. In this regard, it is relevant to mention that the Hon’ble CIC in *Mr. Subrata Guha Ray Vs. CPIO, Appeal No. CIC/SB/A/2016/001025/CBECE-BJ* (Order dated 03.03.2017), has inter-alia observed that: *“.... under the provisions of the RTI Act, 2005, only such information as is available and existing and held by the public authority or is under control of the public authority can be provided. The PIO is not supposed to create information that is not a part of the record. He is also not required to interpret information or furnish replies to hypothetical questions.”* I note that the Respondent has provided the information available on record. Further, it is not within the domain of Respondent to justify as to why the inspection notice does not refer to complaints of the Appellant. RTI Act cannot be used for such grievance redressal of Appellant as sought to be done in this case.
7. With regard to query 2, 3, 4 and 5, the Appellant has asked for the (i) copy of SCN, (ii) copy of documents provided by IP to IBBI, (iii) Copy of investigation report, (iv) inspection report and other documents on which DC concluded and passed the order. I note that the communications between the IP and IBBI are in the context of a corporate insolvency resolution process of a corporate debtor and do contain details which are commercial in

nature and disclosure of such details about IP or corporate debtor could harm their competitive positions. While providing any information received from the IP, the Respondent cannot be oblivious to the fact that by information disclosure, no harm is caused to the commercial transactions in corporate insolvency process or to the persons associated with the process. Accordingly, I hold that the requested information is exempted under section 8(1)(d). Apart from the legal obligation of IP under the governing regulations to ensure confidentiality of the information sought relates to the insolvency resolution process and many of the information contained are received under fiduciary relationship. Therefore, there is fiduciary angle to the relationship between the IP and IBBI also, and the disclosure of requested information is exempted under section 8(1)(e) also. The Appellant has also failed to establish how a larger public interest is involved warranting disclosure of requested information nor has he disclosed as to how his interest is affected by non-disclosure of requested information. Also, the Appellant has no right to ask for such documents under the provisions of the Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017 (Inspection Regulations). These documents are used and relied upon in respect of a disciplinary proceedings against a registered insolvency professional and law does not cast obligations to share these documents with third parties.

8. In view of the above, I do not find any reason to issue any direction to the Respondent as asked for in this Appeal. Accordingly, the Appeal is disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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