

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

2nd Floor, Jeevan Vihar Building
Sansad Marg, New Delhi- 110 001

Dated: 31st March, 2021

RTI Appeal Registration No. ISBBI/A/E/21/00008

IN THE MATTER OF

Mr. Surendra Kumar

... 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. The present Appeal No. ISBBI/A/E/21/00008 dated 4th March, 2021, has been filed by Mr. Surendra Kumar (Appellant), before the First Appellant Authority (FAA), Insolvency and Bankruptcy Board of India (IBBI) under the Right to Information Act, 2005 (RTI Act), against the disposal of the RTI Application No. ISBBI/R/E/21/00008 by the Central Public Information Officer - CPIO (Respondent) on 28th January, 2021.
2. The information sought by the Appellant under section 6 of the RTI Act and the response given by the Respondent are as under:

S. No	Information Sought	Reply by CPIO
1.	<i>Pointwise findings in the matter related to Complaint with registration number COMP-11011/68/2020-IBBI.</i>	<i>The information sought is exempt from disclosure under section 8(1)(d) and 8(1)(j) of RTI Act, 2005</i>
2.	<i>Allegation wise findings in the matter related to complaint with registration number COMP-11011/68/2020-IBBI.</i>	<i>The information sought is exempt from disclosure under section 8(1)(d) and 8(1)(j) of RTI Act, 2005</i>
3.	<i>Action taken on complaint with registration number COMP-11011/68/2020-IBBI.</i>	<i>The information sought is exempt from disclosure under section 8(1)(d) and 8(1)(j) of RTI Act, 2005</i>
4.	<i>In case the complaint with registration number COMP-11011/68/2020-IBBI has been closed without taking any action against the IRP and the</i>	<i>The information sought is exempt from disclosure under section 8(1)(d) and 8(1)(j) of RTI Act, 2005</i>

	<i>IPE, allegation wise reasons for the same.</i>	
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3. In this appeal, the Appellant has stated that *‘the contents of section 8(1)(d) are not invoked in the present case as the applicant is very much part of the CIRP to which the complaint is related. The applicant is thus already aware of and is a victim of the wrongdoings of Shri Sanjay Gupta and his IPE whom the CPIO has tried to protect by extending the umbrella of section 8(1)(d).’*

4. Comments of the respondent were called for. The respondent has submitted that:

“Information sought is exempted under Sec.8(1)(d) of the RTI Act.”

5. On perusal of the application submitted by Appellant for seeking information under RTI Act and the appeal made thereafter, it is observed that Appellant is not satisfied with the exemptions claimed by the CPIO under the RTI Act for not disclosing the findings of the Board in the complaint with registration number COMP-11011/68/2020-IBBI. In this regard, the FAA notes that Section 8(1)(d) and 8(1)(j) exempts the following information from disclosure under the RTI Act:

Section 8(1)(d) of the RTI Act -

“information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;”

Section 8(1)(j) of the RTI Act –

“information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.”

6. The FAA also noted that section 10(1) of the RTI Act on the other hand provides as follows:

‘Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.’

7. From the above, it is difficult to accept the submissions of the CPIO that all part of findings of the Board that is requested by the Appellant in the context of complaint with registration number COMP-11011/68/2020-IBBI contains information which if disclosed, could harm the competitive position of the Insolvency Professional (IP)/Insolvency Professional Entity (IPE) or is personal in nature having no relationship with the public activity and could cause an unwarranted invasion to the privacy of the individual. It is accepted that an IP/IPE under the Insolvency and Bankruptcy Code, 2016 are providing professional services / support services and no information as such shall be disclosed by the Board which could in any way prejudice the competitive

position of them or is 'personal' in nature and has no relationship with the public activity and could cause an unwarranted invasion to the privacy of the individual. However, where such exempted information is capable of being severed, it may be provided to the Appellant in compliance of Section 10(1). Accordingly, the CPIO is directed to provide the Appellant with relevant part of the information requested in the matter pertaining to complaint with registration number COMP-11011/68/2020-IBBI after severing the parts which are exempted under Section 8(1)(d) and 8(1)(j), within 10 days of this Order.

8. In view of foregoing, the appeal is disposed of.

(Sd/-)

(Dr. Anuradha Guru)

Executive Director and First Appellate Authority

Copy to:

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