

**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: 29th March, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00009

IN THE MATTER OF

Yogesh Assudani

... 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 Appellant has filed present Appeal dated 23rd March 2022, challenging the communication of the Respondent dated 21st March 2022 with regard to his RTI Application No. ISBBI/R/E/22/00078 dated 15th March 2022 filed under the Right to Information Act, 2005 (RTI Act). In the RTI Application, the Appellant has stated that –

“We have raised an IBBI Complaint on 28th Feb 2022, registration number IBBI/C/2022/00636. However, even after 16 days, we have NOT received any further communication on the progress of the complaint. We have more than 750 Homebuyers, who are awaiting their homes in the CIRP process of Sidhartha Buildhome (SBPL) Projects, against whom insolvency proceedings were initiated on 4/3/21, C.P No. IB 717/ND/2019. The Resolution Professional is:

- 1). NOT bringing ANY crucial resolutions in CoC, even after REPEATED emails by more than 100 Homebuyers. We immediately need a resolution to set a cap on the DEFICIT of CD, which is increasing exponentially with each passing day. As per the statement shared till 31st January, the DEFICIT is Rs. 4.25 crores, WITHOUT any cap on the upper limit set.*
- 2). Bringing the ex-Promoter of the company, DIRECTLY as a prospective RA applicant, through the new Form-G. This is completely unethical, and NOT accepted by Homebuyers to again face the manipulator and fraudster, as even defined by Honble High Court order dated 13 Dec 2021, which has also REJECTED the bail application of the ex-Promoter.*
- 3). Bringing the ex-Promoter of the company, DIRECTLY as a prospective RA applicant, through the new Form-G.*

Prayer:

- 1. Form-G should be stayed.*
- 2. Voting of 18th CoC to be nullified.*
- 3. Re-voting of RA, MONITORED by Independent IBBI professional.*
- 4. Interim Finance (approved in July 2021) to be NULLIFIED.*

5. Continuous construction ahead to be NULLIFIED, and everything to be APPROVED by CoC.

6. Immediately define DEBIT transaction limit.

7. Authority of RP for proceeding with signatory authority to be NULLIFIED.

8. Any other relief, which the Honble Board deem fit and proper, may also be awarded to the appellants.

We sincerely hope and expect that this time you will act fairly and in the interests of the homebuyers and do not take RPs words as gospel truth. Even if you intend to do so, request to at least follow the law.

Hoping for a faster progress on the complaint.”

2. The Respondent had stated that the prayers sought by the Appellant do not fall within the definition of ‘information’ under the RTI Act.
3. In this Appeal, the Appellant has stated that “...I had asked for STATUS of my IBBI Complaint, registration number IBBI/C/2022/00636, which was filed on 28th Feb 2022. However, I NEVER received any update on the same. Even after (nearly) 4 weeks, we have NOT received any further communication on the progress of the complaint. The Prosecution Division of IBBI should take a prima facie within 15 days of its receipt. This has already been passed, and it has been 24 days, WITHOUT any response. We have more than 750 Homebuyers, who are awaiting their homes in the CIRP process of Sidhartha Buildhome (SBPL) Projects, against whom insolvency proceedings were initiated on 4/3/21, C.P.No. IB-717/ND/2019. We sincerely hope and expect that this time you will act fairly and in the interests of the homebuyers and do not take RPs words as gospel truth. Even if you intend to do so, request to atleast follow the law. Hoping for a faster progress on the complaint.”
4. 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. I note that the Appellant had, in his Application, stated that he has not heard anything from IBBI on his complaint No. IBBI/C/2022/00636 and had requested for certain reliefs from the Respondent in the context of CIRP process of Sidhartha Buildhome (SBPL) Projects.
5. 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. Section 2(j) of the RTI Act defines the “right to information” in terms of information accessible under the Act which is held by or is under the control of a public authority.
6. The aforesaid definitions contemplate providing of material in the forms of records, documents, opinions, advices, etc. It does not include giving opinions or initiating actions on representations/complaints as asked by the Appellant. The apprehensions, inquisitions and hypothecations of the Appellant in my view, are beyond the scope of right to information under the RTI Act. The grievances of the Appellant cannot be dealt under RTI Act. The Hon’ble CIC in *M Jameel Basha Vs. CPIO, Ministry of Personnel Public Grievances & Pension, Department of Personnel & Training, North Block, New Delhi -110001, File No:*

CIC/MPERS/A/2017/158527/SD (Decision dated 06.05.2019), has observed the following:

“Commission concedes with the submission of the CPIO as no information has been sought as per Section 2(f) of the RTI Act. It may be noted that under RTI Act, CPIO is not supposed to create information or interpret/clarify/deduct information in respect of queries/clarifications. Similarly, redressal of grievance, non-compliance of rules, contesting the actions of respondent public authority and suggesting correction in government policies are outside the purview of the RTI Act.”

7. I also note that the Appellant has stated that *“The Prosecution Division of IBBI should take a prima facie within 15 days of its receipt.”* Such a statement is hypothetical in nature and is based on misconception, assumptions and presumptions. The Respondent is not expected to answer such hypothetical questions. In the matter of *Shri C.T. Adsule Vs. Department of Legal Affairs* (Order dated January 5, 2009), the Hon’ble CIC held the respondent did not have any obligation to respond to hypothetical scenarios.
8. In view of the above, I agree with the response of the Respondent that the request is not covered in the scope of *“information”* under section 2(f) and *“right to information”* of the RTI Act under section 2(j) of the RTI Act and find that there is no need to interfere with the decision of the respondent. The appeal is accordingly dismissed.
9. While parting with this order, I hereby clarify that this order shall not be considered as expression of any opinion on the merits of the complaint No. IBBI/C/2022/00636 of the Appellant. The Appellant is at liberty to take up his complaint with IBBI or any other authority having jurisdiction to redress the same in accordance with law.

Sd/

(Santosh Kumar Shukla)

First Appellate Authority

Copy to:

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