

**EXECUTIVE DIRECTOR
AND
FIRST APPELLATE AUTHORITY
Insolvency and Bankruptcy Board of India**

2nd Floor, Jeevan Vihar Building
10, Sansad Marg
New Delhi – 110001.
Dated 25th October, 2019.

Appeal No. ISBBI/A/2019/00029 (F. No. – IBBI/BS/RTI/RTI APP/246)

[Arising out of the reply under RTI Registration No. ISBBI/R/2019/50066 of the CPIO dated 23rd August, 2019]

IN THE MATTER OF

Dr. Puja Chandra

..... Appellant

Vs.

Central Public Information Officer
Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan
New Delhi – 110001.

..... Respondent

ORDER

1. The present Appeal No. ISBBI/A/2019/00029 dated 19th September, 2019, received by the office of the First Appellant Authority (FAA), Insolvency and Bankruptcy Board of India (Board) under the Right to Information Act, 2005 (22 of 2005) (Act), has been preferred by Dr. Puja Chandra (appellant) against the reply of the Central Public Information Officer (CPIO) (respondent) dated 23rd August, 2019.
2. It is observed that the appellant has requested the respondent the following information (RTI request) on 24th July, 2019, under section 6 of the Act:
 - (a) Whether resolution professional (RP) has filed information on fraudulent/avoidable transactions in the Affinity Beauty Salon Pvt. Ltd. and what action has been taken by Insolvency and Bankruptcy Board of India (IBBI).
 - (b) Whether IBBI have received any complaint highlighting improper CIRP by the RP or fraudulent activities by the promoters/Ex-Directors and what action has been taken by IBBI.
3. Pursuant to the above, the respondent replied on 23rd August, 2019, as under:
Query No. 1:

“As per the information furnished by the resolution professional, application under Section 43, 44, 45 and 66 of the Insolvency and Bankruptcy Code, 2016 have been filed by him in the CIRP of Affinity Beauty Salon Pvt. Ltd.”

Query No. 2:

“A complaint dated 05-08-2019 from Mr. Anurag Chandra in Form A under the IBBI Grievance and Complaint Handling Procedure) Regulations, 2017 have been received against the RP in the CIRP of Affinity Beauty Salon Pvt. Ltd. The said complaint is under process. Also, CPGRAM dated 30-07-2019 from Mrs. Puja Chandra is received against the RP in the CIRP of Affinity Beauty Salon Pvt. Ltd. the said grievance is under process.”

4. The appellant has preferred this appeal raising concern that regarding query No. 1, the RP has provided the Board misleading and incomplete information and regarding query No. 2, the appellant has alleged that complaints must be addressed by IBBI within forty five days and since that time is over, immediate action is required.
5. The appeal and the relevant records have been examined. The respondent and the officer, who is dealing with the matter referred to in the RTI request have been heard. It is pertinent to note that the appellant has raised concern regarding the reply provided and has sought action against the RP and immediate resolution of her complaint.
6. In this connection, it is relevant to consider Section 19(1) of the Act, which is reproduced hereunder:

*“19(1) **Any person who, does not receive a decision** within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is **aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or the State Public Information Officer, as the case may be, in each public authority: Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.**”*

Thus, it is found that only a person who did not receive a decision within the time frame provided under the Act or aggrieved by the decision of the CPIO, may prefer a first appeal under the Act. In the instant case, the appellant had received the reply from the respondent within the given time frame, and she has preferred this appeal alleging that the reply given to her by the respondent is inadequate and misleading. Next thing to consider is whether the appellant is “aggrieved” by the decision of the respondent? In this connection, it is necessary to understand the meaning of the term “aggrieved” under Section 19(1) of the Act. The question to be considered is whether the appellant is in anyway prejudicially affected by the act or omission of the respondent or she suffered any legal grievance in order to hold that she is actually “aggrieved”.

In the matter of Jasbhai Motibhai Desai Vs. Roshan Kumar Haji Bashir Ahmed (AIR 1976 SC 578), the Hon'ble Supreme Court laid down certain tests to determine whether a person is aggrieved or not which is provided as under:

“Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense that his interest, recognised by law has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction...”

Further, in the matter of Bar Council of Maharashtra Vs. M. V. Dabholkar and Ors. (AIR 1975 SC 2092), the Hon'ble Supreme Court held:

“The meaning of the words "a person aggrieved" may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. Normally, one is required to establish that one has been 'denied or deprived' of something to which one is legally entitled in order to make one "a person aggrieved".”

In the instant case, the information sought by the appellant was provided by the respondent within the timeframe under the Act. The concern of the appellant is that the RP had not provided all the information relating to the CIRP of Affinity Beauty Salon Pvt. Ltd. to the Board and has sought appropriate action against the RP post investigation. The appellant has also sought immediate action on the complaints against the RP. It is evident, the appellant is not aggrieved by the decision of/information provided by the respondent rather she is dissatisfied with the incomplete information provided by the RP to the Board. Thus, this appeal is in essence a complaint against the RP couched as an appeal.

8. In view of the foregoing, this first appellate authority is of the considered view that the appellant is not aggrieved by the information provided by the respondent. Any allegation raised against the RP in the CIRP of Affinity Beauty Salon Pvt. Ltd. by the appellant may have to be dealt with otherwise than by way of filing appeal under the Act. Thus, the appeal has no merit and thus dismissed.

(Sd/)

(Mr. K. R. Saji Kumar)

Executive Director and First Appellate Authority

Copy to

1. Appellant, Dr. Puja Chandra.
2. Respondent (CPIO, Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, New Delhi).