

**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: 31st March, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00012

IN THE MATTER OF

Sanjay Upadhyay

... 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 25th March 2022, challenging the communication of the Respondent dated 21st March 2022 with regard to his RTI Application No. ISBBI/R/E/22/00084 dated 19th March 2022 filed under the Right to Information Act, 2005 (RTI Act). In the RTI Application, the Appellant has stated that –

“Sir, we booked our home for more than 10 yrs , presently these homes are in the NCLT process . Now IRP & AR has shaken hands with builder . They do not want that any RA should be finalized and our home should be delivered ASAP to us. Sir its a kind request with folded hands that It is very hard to pay rent and installment together and run the family.

Please intervene

Society name is - SidharthaEstella , Secot.103, Dwarka Expressway , Gurugram.”

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 *“Sir, we have booked a flat in 2013 in Sidhartha Estealla in sector 103 at Dwarka Express , almost 10 years passed , flats are not yet handed over. Sir we are middle class service personal , still paying installment of bank loan & Rent every month. Surviving at very high risk. At this point if Govt. does not interveien , we do not know what is going to happen. Presently the case is under NCLT process, and IRP & AR both has shaken hands with the builder. IRP has tried & still trying to make money out of this process. He is trying hard that no good RA should come who can devlope & handover this project Its a kind request with folded hands pls do the neddful ASAP. The Prosecution Division of IBBI should take a prima facie within15 days of its receipt. This has already been passed , and it has been24 days , without any response.”*

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, sought intervention of the government in the NCLT process.

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 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. Answering such hypothetical questions does not fall within the scope of the RTI Act. 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.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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