

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

2nd Floor, Jeevan Vihar Building,
Sansad Marg, New Delhi - 110 001
Dated: 5th February, 2021

RTI Appeal Registration No. ISBBI/A/E/21/00002

IN THE MATTER OF

Mr. Anil Kumar Tyagi

..... 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. This appeal is in reference to the application under the Right to Information Act, 2015 (**RTI Act**) bearing Registration no. ISBBI/R/E/20/00195. The information sought by the appellant under section 6 of the RTI Act and the reply given by the respondent, is at **Annexure 1**.
2. In the appeal, the appellant has stated that the ground of appeal is that the CPIO has not provided complete information.
3. A response from the CPIO, on the appeal, was sought. The CPIO has reiterated the response given by him to the RTI application.
4. In this connection, the First Appellate Authority (FAA) has following observations:

Sl. No.	Information Sought	Submissions of appellant before FAA	Observations of FAA
1.	Please provide me documents of show cause notice issued to Mr. Vivek Raheja against my complaint No File No. COMP11011/79/2020-IBBI	-	No appeal has been made on this point and accordingly, the FAA has no observations.
2.	Please provide me documents forwarded to RP Mr. Vivek Raheja against my complaint No File No. COMP-11011/79/2020-IBBI	IBBI has not attached copy of documents as specified in reply dt 28-12-2020	The appellant has submitted that he has not received the documents requested. However, the CPIO has submitted that the documents sought have sent to the appellant and sufficient proof was also shown to FAA. However, CPIO is requested to again send the documents to the appellant for facilitating the
3.	Please provide me documents submitted by Mr. Vivek Raheja against my complaint No File No.	IBBI has not attached copy of documents as specified in reply dt 28-12-2020	

	COMP-11011/79/2020-IBBI		disclosure of information under the Act.
4.	Please provide me documents, file noting by which it was decided that no actionable case is found against Mr. Vivek Raheja.	IBBI has not attached copy of documents as specified in reply dt 28-12-2020	
5.	Mr. Vivek Raheja is giving wrong information to CoC about me. Kindly provide copy of CoC COM, so that I can understand information's given against me and I can defend my self-dignity.	IBBI has not provided CoC MOM. Otherwise IBBI should intimate procedure to obtain CoC MOM.	The CPIO had sought exemption from disclosing this information under section 8 (1) (d) and (e) of the RTI Act. The appellant has not challenged the ground of exemption taken by the respondent. Rather, he has sought new information that IBBI should provide a procedure to obtain the copy minutes of meeting of committee of creditors and valuation report.
6.	As per RP, RP intimated in 2nd CoC that GAMA offered Rs 50 Lac as Full and Final settlement. In same 2nd CoC meeting it was discussed that opinion will be shared in next CoC Meeting. Please provide documents how 50 L amount figure is arrived. Please also provide information about opinion shared in any meeting as value of material was more than 50 L	IBBI has not provided CoC MOM. Otherwise IBBI should intimate procedure to obtain CoC MOM. In the name of exemption, open frauds are being committed.	As providing a procedure for obtaining some documents do not fall within the power of FAA under the Act, no further action is required.
7.	I was asked to provide information to Forensic Auditors, Valuers etc. In addition, other staffs were also asked to provide information. My name may be reflecting in report intimating that I am consent to report. Please provide me copy of Forensic report, valuation report, to cross check that my data is captured correctly or not and not manipulated.	IBBI has not provided Valuation report. Otherwise IBBI should intimate procedure to valuation report. In the name of confidential, open frauds are being committed.	

8.	<p>Please provide information that if CD has not deposited pre-CIRP P.F. and Pre CIRP P.F. and claim are not filed timely by EPFO, RP should include Statutory Dues in IM, based on company financial data or not.</p> <p>Employees have sent complaint to RP/IBBI also on 28-09-2020. Please provide information of action taken</p> <p>Please also provide guidelines for pre-CIRP-PF not deposited</p>	<p>IBBI has not provided guideline of inclusion of Pre-CIRP PF not deposited, in Claim List, based on company financial data.</p> <p>IBBI has not attached copy of documents No IBBI/GRV/2020-21/00289 dt 11-12-2020 as specified in reply dt 28-12-2020. Portal do not have reply document.</p>	<p>In accordance with the Insolvency and Bankruptcy Code, 2016, IBBI on 30th November, 2016 notified the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. These regulations <i>inter alia</i> provide for the details of activities from initiation of corporate insolvency resolution process (CIRP) till its conclusion with approval of the resolution plan by the Adjudicating Authority. These regulations came into effect from 1st December, 2016.</p> <p>The FAA notes that all the Regulations (including aforesaid regulations), Circulars and Guidelines issued by IBBI from time to time are already available on the website of IBBI at https://ibbi.gov.in/legal-framework.</p> <p>Further, CPIO submitted that information sought is not available as no such circular/ guidelines, on the specific point raised by the appellant, have been issued.</p> <p>Accordingly, the FAA agrees with the CPIO that the information sought by appellant is not available with IBBI and therefore, no information could be provided.</p> <p>In reference to document no. IBBI/GRV/2020-21/00289 dated 11-12-2020, same may again be provided to the appellant by the CPIO.</p>
9.	<p>Please provide information that if Gratuity fund is finished, (which is managed by LIC) due to Gratuity released to employees / workers and further fund is not available, RP has to ensure Gratuity fund in LIC or not. RP should include Gratuity amount in IM, based on company financial data or not.</p>	<p>IBBI has not provided guideline of inclusion of Pre-CIRP Gratuity fund not deposited in Claim List based on company financial data.</p> <p>IBBI has not attached copy of documents No IBBI/GRV/2020-21/00285 dt 11-12-2020 as specified in reply dt 28-12-2020. Portal do not have reply document.</p>	<p>- Same as at point 8 above.</p> <p>In reference to document no. IBBI/GRV/2020-21/00285 dated 11-12-2020, the same may again be provided to the appellant by the CPIO for facilitating the disclosure of information under the Act.</p>

	<p>Employees have sent complaint to RP/IBBI also on 28-09-2020. Please provide information of action taken</p> <p>Please also provide guidelines for Gratuity fund.</p>		
10.	<p>Please provide information that if CD has not deposited Pre-CIRP TDS and Income Tax department has not submitted TDS claim, RP should include TDS dues in IM, based on company financial data or not.</p> <p>Employees have sent complaint to RP/IBBI also on 28-09-2020. Please provide information of action taken</p> <p>Please also provide guidelines for Pre-CIRP Income Tax, TDS.</p>	<p>IBBI has not provided guideline of inclusion of Pre-CIRP TDS not deposited, in Claim List, based on company financial data.</p> <p>IBBI has not attached copy of documents No IBBI/GRV/2020-21/00289 dt 11-12-2020 as specified in reply dt 28-12-2020. Portal do not have reply document.</p>	<p>- Same as at point 8 above.</p> <p>In reference to document no. IBBI/GRV/2020-21/00289 dated 11-12-2020, same may again be provided to the appellant by the CPIO for facilitating the disclosure of information under the Act.</p>
11.	<p>RP admitted 35.81 Cr operational creditor claim, although same was not matured for payment as on CIRP date 4-7-2019. Due to same, company liability increased thus giving negative picture of company to PRA.</p> <p>Employees have sent complaint to RP/IBBI also vide letter dt 24-08-2020. Please intimate action taken by IBBI.</p> <p>Please also provide guidelines for claim not matured or not payable on CIRP admission date.</p>	<p>IBBI has not attached copy of documents no 11012/175/2020-IBBI, as specified in reply dt 28-12-2020. Portal do not have reply document.</p> <p>We have checked IBBI website.</p> <p>i) There is no information of not payable claim on CIRP date.</p> <p>ii) Not payable as per company ledgers.</p> <p>ii) Related party</p> <p>IBBI has not provided guideline for claims not payable on CIRP date.</p>	<p>The appellant may be provided with the documents no. 11012/175/2020-IBBI.</p> <p>- Same as at point 8 above.</p>
12.	<p>RP is doing private meeting with Resolution</p>	<p>Information required is very clear.</p>	<p>- Same as at point 8 above.</p>

	<p>Applicant and guiding about company deteriorated valuation, Resolution Plan.</p> <p>Please provide guidelines about RP connivance with Resolution Applicant.</p>	<p>IBBI has not provided guideline of private meeting of RP and RA.</p>	
13.	<p>As per IBBI Guidelines and IBBI Circular No. IBBI/CIRP/023/2019 dt 14th August 2019, following information is to be uploaded on CD Website also Form A, i.e. Public Announcement. Form G, EOI Expression of Interest Provision List of PRA, Final List of PRA Updated List of Creditors / Claim i.e regularly updated list Any other information</p> <p>Please provide copy of documents submitted by RP, as per circular dt 14-8-2019 and confirmation of date of above information uploaded on CD website i.e www.tradingengineers.com Please confirm about time-line for Information's to be uploaded on CD Website.</p> <p>If no information is uploaded timely by RP, what actions are taken by IBBI against RP.</p>	<p>IBBI has not attached copy of documents dt 27-08-2020 as specified in reply dt 28-12-2020.</p>	<p>The letter dated 27th August, 2020 as claimed to be already shared by CPIO, may again be shared with the appellant as it seems that the same has not reached to the appellant.</p>
14.	<p>RP is not uploading email, contact details of operational creditors.</p> <p>Please provide guideline how Operational Creditors will nominate one authorized representative among operation creditors as per Section 24(3)(c) read with Section 24(4) of</p>	<p>We have checked IBBI website but there is no information how OC will contact each other.</p> <p>IBBI has not provided guideline for operational creditor contacting each other (without having contact details) for nominating 1 person among themselves.</p>	<p>- Same as at point 8 above.</p>

	Insolvency and Bankruptcy Code, 2016, and notice of CoC meeting shall also be given to one authorized representative of Operational creditors, without having contact details.		
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5. The Respondent is requested to provide the aforesaid information within 10 days from the date of this Order.
6. In view of foregoing, the appeal is disposed of.

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(Dr. Anuradha Guru)

Executive Director and First Appellate Authority

Copy to:

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

Annexure 1

<i>Sl. No.</i>	<i>Information Sought</i>	<i>Reply by CPIO</i>
1.	Please provide me documents of show cause notice issued to Mr. Vivek Raheja against my complaint No File No. COMP11011/79/2020-IBBI	The allegations made in the complaint File No. COMP-11011/79/2020- IBBI, have been duly examined by the Board. Based on the information on record, the Board has not found any actionable material in the complaint. The complaint has accordingly been closed without any further action. The same was communicated to the complainant/Applicant (Mr. Anil Kumar Tyagi) vide IBBI email dated October 29, 2020.
2.	Please provide me documents forwarded to RP Mr. Vivek Raheja against my complaint No File No. COMP-11011/79/2020-IBBI	The copy of query sent to IP vide emails dated August 11, 2020 and October 5, 2020 and October 9, 2020 is attached.
3.	Please provide me documents submitted by Mr. Vivek Raheja against my complaint No File No. COMP-11011/79/2020-IBBI	The copy of reply received from IP vide letter dated August 27, 2020 and October 14, 2020 is attached.
4.	Please provide me documents, file noting by which it was decided that no actionable case is found against Mr. Vivek Raheja.	The copy of noting on File No. COMP11011/79/2020-IBBI is attached.
5.	Mr. Vivek Raheja is giving wrong information to CoC about me. Kindly provide copy of CoC COM, so that I can understand information's given against me and I can defend my self-dignity.	The information sought is exempted under section 8 (1) (d) and (e) of RTI Act.
6.	As per RP, RP intimated in 2 nd CoC that GAMA offered Rs 50 Lac as Full and Final settlement. In same 2nd CoC meeting it was discussed that opinion will be shared in next CoC Meeting. Please provide documents how 50 L amount figure is arrived. Please also provide information about opinion shared in any meeting as value of material was more than 50 L	The information sought is exempted under section 8 (1) (d) and (e) of RTI Act.
7.	I was asked to provide information to Forensic Auditors, Valuers etc. In addition, other staffs were also asked to provide information. My name may be reflecting in report intimating that I am consent to report. Please provide me copy of Forensic report, valuation report, to cross check that my data is captured correctly or not and not manipulated.	The information sought is not available.
8.	Please provide information that if CD has not deposited pre-CIRP P.F. and Pre CIRP P.F. and claim are not filed timely by EPFO, RP should include Statutory Dues in IM, based on company financial data or not. Employees have sent complaint to RP/IBBI also on 28-09-2020.	Information sought is in the nature of advice / opinion, therefore, it does not fall under the definition of information under RTI Act. Closure of grievance communicated to Complainant no. IBBI/GRV/2020-21/00289 through portal on December 11, 2020.

	<p>Please provide information of action taken</p> <p>Please also provide guidelines for pre-CIRP-PF not deposited</p>	
9.	<p>Please provide information that if Gratuity fund is finished, (which is managed by LIC) due to Gratuity released to employees / workers and further fund is not available, RP has to ensure Gratuity fund in LIC or not.</p> <p>RP should include Gratuity amount in IM, based on company financial data or not.</p> <p>Employees have sent complaint to RP/IBBI also on 28-09-2020. Please provide information of action taken</p> <p>Please also provide guidelines for Gratuity fund.</p>	<p>Information sought is in the nature of advice / opinion, therefore, it does not fall under the definition of information under RTI Act.</p> <p>Closure of grievance communicated to Complainant no. IBBI/GRV/2020-21/00285 through portal on December 11, 2020.</p>
10.	<p>Please provide information that if CD has not deposited Pre-CIRP TDS and Income Tax department has not submitted TDS claim, RP should include TDS dues in IM, based on company financial data or not.</p> <p>Employees have sent complaint to RP/IBBI also on 28-09-2020. Please provide information of action taken Please also provide guidelines for Pre-CIRP Income Tax, TDS.</p>	<p>Information sought is in the nature of advice / opinion, therefore, it does not fall under the definition of information under RTI Act.</p> <p>Closure of grievance communicated to Complainant no. IBBI/GRV/2020-21/00289 through portal on December 11, 2020.</p>
11.	<p>RP admitted 35.81 Cr operational creditor claim, although same was not matured for payment as on CIRP date 4-7-2019.</p> <p>Due to same, company liability increased thus giving negative picture of company to PRA.</p> <p>Employees have sent complaint to RP/IBBI also vide letter dt 24-08- 2020.</p> <p>Please intimate action taken by IBBI.</p> <p>Please also provide guidelines for claim not matured or not payable on CIRP admission date.</p>	<p>Closure of grievance No. COMP11012/175/2020-IBBI, received on CPGRAM portal was communicated to Complainant.</p> <p>Please refer to IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 regarding filing of claims. The copy of regulations is available on IBBI website.</p>
12.	<p>RP is doing private meeting with Resolution Applicant and guiding about company deteriorated valuation, Resolution Plan. Please provide guidelines about RP connivance with Resolution Applicant.</p>	<p>Information sought is not clear</p>
13.	<p>As per IBBI Guidelines and IBBI Circular No. IBBI/CIRP/023/2019 dt 14th August 2019, following information is to be uploaded on CD Website also</p>	<p>IP vide letter dated August 27, 2020 (copy attached) has submitted that he has been, from time to time, updating all the required information on the website of CD i.e.,</p>

	<p>Form A, i.e. Public Announcement. Form G, EOI-Expression of Interest Provision List of PRA, Final List of PRA Updated List of Creditors / Claim i.e regularly updated list Any other information</p> <p>Please provide copy of documents submitted by RP, as per circular dt 14-8-2019 and confirmation of date of above information uploaded on CD website i.e www.tradingengineers.com</p> <p>Please confirm about timeline for Information's to be uploaded on CD Website.</p> <p>If no information is uploaded timely by RP, what actions are taken by IBBI against RP.</p>	<p>http://tradingengineers.com/TradingEngineer.html</p> <p>Please refer to IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 regarding filing of claims. The copy of regulations is available on IBBI website.</p>
14.	<p>RP is not uploading email, contact details of operational creditors.</p> <p>Please provide guideline how Operational Creditors will nominate one authorized representative among operation creditors as per Section 24(3)(c) read with Section 24(4) of Insolvency and Bankruptcy Code, 2016, and notice of CoC meeting shall also be given to one authorized representative of Operational creditors, without having contact details.</p>	<p>Please refer to IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 regarding filing of claims. The copy of regulations is available on IBBI website.</p>