

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

2<sup>nd</sup> Floor, Jeevan Vihar Building  
Sansad Marg, New Delhi- 110 001

**Dated: 3<sup>rd</sup> April, 2021**

**RTI Appeal Registration No. ISBBI/A/E/21/00009**

**IN THE MATTER OF**

**Mr. Raman Berry**

... 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/21/00009 dated 5<sup>th</sup> March, 2021, has been filed by Mr. Raman Berry (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/T/20/00032 by the Central Public Information Officer - CPIO (Respondent) on 3<sup>rd</sup> December, 2020.
2. The information sought by the Appellant under section 6 of the RTI Act and the response given by the Respondent are as under:

<b><i>Sl. No</i></b>	<b><i>Information Sought</i></b>	<b><i>Reply by CPIO</i></b>
1.	<i>Whether Letter/Representation sent from Ministry of Corporate Affairs to RBI regarding issue of participation of Asset Reconstruction Companies as Resolution Applicants under IBC?</i>	<i>Information sought is exempted under Sec.8(1)(d) of the RTI Act.</i>
2.	<i>Please provide certified Copy of Letter/Representation issued to RBI regarding issue of participation of Asset Reconstruction Companies as Resolution Applicants under IBC.</i>	
3.	<i>Please provide Certified Copy of Letter/Representation</i>	

	<i>received from RBI to Ministry of Corporate Affairs regarding issue of participation of Asset Reconstruction Companies as Resolution Applicants under IBC.</i>	
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3. In this appeal, the appellant has stated the following:
  - “a. Information sought concerns participation by Asset Reconstruction Companies as Resolution Applicants under IBC which is of importance to Indian economy and concerns public interest.*
  - b. Rejection of request cannot be sustained u/s 8(1)(d) of RTI Act. The information is of general public importance and does not fall under any categories identified under such provision.*
  - c. The delay in submitting such first appeal is because in January 2021, few of my immediate relatives tested positive for Covid-19 & required medical assistance. I was also unwell in the last few weeks. Owing to these reasons I was unable to regularly check status of my RTI and could not file appeal in time. I request such delay be condoned and my appeal be considered.”*
4. Comments of the respondent were called for. The respondent has submitted that:
 

*“As regards point (2) of the RTI application, communications on the subject matter of ARCs as a Resolution Applicants with RBI contain commercial confidential deliberations and policy issues. Further, it may also impact the competitive position of companies who may or may not be ARCs and other prospective resolution applicants.*

*With respect to point no. 1 and 3, the information are not available with IBBI.”*

#### **Issue No. 1 – Delay in submission of appeal**

5. The RTI application was filed by the appellant on 3<sup>rd</sup> December 2020 which was disposed by the respondent on 30<sup>th</sup> December 2020. As per section 19 of the RTI Act, the appeal should have been filed within 30 days of 30<sup>th</sup> December 2020. However, this is not the case as the appeal has been filed on 5<sup>th</sup> March, 2021 which is after more than 60 days date of disposal by the respondent.

The appellant has submitted that he was prevented from filing on account of certain personal and family health issues. This appears to be a sufficient reason preventing the appellant from filing the appeal on time and accordingly, this FAA permits this appeal.

#### **Issue No. 2 – Disclosure of information**

6. On perusal of the application submitted by RTI Appellant for seeking information under RTI Act and the appeal made thereafter, it is observed that Appellant has sought (points 1 and 3) certified copies of the letters/representations between Ministry of Corporate Affairs and Reserve Bank of India (RBI) on the subject of Asset Reconstruction Companies (ARCs) as resolution applicants under Insolvency and Bankruptcy Code, 2016 (IBC). These communications are not available with IBBI.

7. As regards point 2, this FAA is of the view that communications between IBBI and RBI, and IBBI and Ministry of Corporate Affairs, on the subject-matter of ARCs as resolution applicants under IBC do contain confidential deliberations and information which can be termed as commercial and can affect the competitive position of companies who are/are not ARCs and do not have access to such communications. Therefore, the CPIO was correct in withholding the information under Section 8(1)(d) of the Act. Further, no larger public interest seems to be served by disclosure of such information.
8. Lastly, the FAA is of the view that there is no larger public interest which warrants the disclosure of the information being sought by the Appellant.
9. In view of foregoing, the appeal is disposed of.

(Sd/-)

**(Dr. Anuradha Guru)**

Executive Director and First Appellate Authority

Copy to:

1. Appellant, Mr. Raman Berry.
2. CPIO, The Insolvency and Bankruptcy Board of India, 2<sup>nd</sup> Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.