

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

7th Floor, Mayur Bhawan, Shankar Market,
Connaught Circle, New Delhi- 110 001

Dated: 04th October, 2024

IN THE MATTER OF

Pai Khot Parashar

... Appellant

Vs.

Central Public Information Officer

The Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, Shankar Market,
Connaught Circle, New Delhi - 110 001.

... Respondent

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1. The Appellant has submitted three separate communications, dated 28.08.2024, 29.08.2024 and 04.09.2024, former two received on 04.09.2024 and later communication was received on 10.09.2024, as appeals against the response provided by the Respondent under the Right to Information (RTI) Act, 2005. Upon perusal of the Appeals, it is observed that these are intrinsically related and address the same matter. In the interest of administrative efficiency and to avoid unnecessary duplication of proceedings, all three appeals are hereby being disposed of through this single, consolidated order.
 2. The Appellant has filed the present Appeal dated 04th September 2024 (received by IBBI on 10th September, 2024), challenging the communication of the Respondent dated 02nd September 2024 in his RTI application no. ISBBI/R/P/24/00020. As this Appeal required detailed examination of provisions of RTI Act, same is disposed within 45 days instead of 30 days. In his RTI application filed under the Right to Information Act (RTI Act), the Appellant had requested for the following -
“Kindly confirm if any, delay in taking any step as per the Time Line given under Regulation 40-A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. If yes, please provide a copy of communication/ document vide which the IRP has reported such delay to IBBI.
A Copy of Form CIRP-2 (along with the enclosures), filed by the IRP regarding delay in publishing the Public Announcements as per Regulation 6(1) of IBBI Regulations.
Kindly provide me a copy of the REPORT, certifying constitution of the committee of creditors that the IRP filed to the Adjudicating Authority in respect of CRIP (Corporate Insolvency Resolution Process)
Kindly provide me copies of Form Nos. IP-1, CIRP-I, CIRP-2, CIRP-3, CIRP-4, CIRP-5, (filed by the IRP/RP) along with the enclosures so filed with the above said forms.

Please provide copies of Form-7 if any, filed by the IRP/RP for any delay caused in filing the Form-CIRP-I, to CIRP-5, by the IRP/RP”

3. The Respondent has stated that “*The information sought is in the nature of commercial confidence and is exempted from disclosure under section 8(1)(d) of RTI, 2005.*”. Aggrieved by the same, the Appellant has filed the present appeal stating the following –

“(a) A very vague and round about answer is received from CPIO, IBBI-New Delhi. Though the RTI request was very specific and for confirmation of delay in implementing the CIRP of PAIKHOT INFRA PRIVATE LIMITED and copies of Report of Constitution of CoC in CIRP and other forms which have to be submitted by IRP/RP to IBBI were requested as per details.....

..... But instead of providing a copy above request Report, the CPIO replied that the information is commercial confidential nature and exempted under section 8(1)(d) of Right to Information Act, 2005. That even after 30 days passed the applicant did not receive any response from the CPIO hence the Applicant files the appeal before this Hon’ble Authority on 29/08.2024.

The information was not received but a most ambiguous and avoiding response was received AFTER 30 days of submission of Form A

(b) Aggrieved by the response of CPIO that too not received within the prescribed period and the response is also prima facie, wrong, false, incorrect and not falling under the exempted category of information hence this First Appeal.

Grounds for appeal:

Information sought vide the RTI Application dated 10.06.2024 (copy enclosed) has not been provided by the Ld. CPIO hence this (First) Appeal.

The non-furnishing of specific information / copy of report also amounts to refusal to provide information by the CPIO.

Prayer or Relief Sought

Pray that Ld. FAA may kindly issue suitable direction so as to ensure that the Information sought is provided to the Applicant at the earliest.

Information sought must kindly be provided as simply ignoring the RTI Application and by not providing the information sought or by not giving specific reply whether the copy is available or not, the CPIO is simply giving a very vague and unspecific reply to the RTI

Application, and the same amounts to contravention of the RTI Act, hence must be avoided.

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. The Appellant has asked for a copy of CIRP Form 1-5, CIRP 7, IP-1 and other information filed by the IP with IBBI. The particulars of Form CIRP 1-8 are filed by the IPs in the context of a corporate insolvency resolution process and *inter-alia* deals with commercial information / trade secrets such as terms of engagement, details of authorised representative, details of creditors, information about claims, details of valuers, details of applications filed before the Adjudicating Authority, expression of interest, evaluation matrix, details of resolution applicants, resolution plan, information about preferential, undervalued, fraudulent and extortionate credit transactions, etc.. The said online platform hosted on the website of the IBBI at <https://www.ibbi.gov.in> is to facilitate filings by registered IPs for the purposes of monitoring corporate insolvency resolution processes. The IP is allowed to access the said platform with the help of a unique username and password provided by the IBBI, after affixing DSC or after e-signing. This being the nature of e-filing by IPs, it is concluded that the same involve trade secrets and disclosure of the same has every probability of impact

competitive position of the corporate debtor, insolvency professional and other stakeholders and compromising such competitive position.

5. Further, the communications between the IP and IBBI, are related to a corporate insolvency resolution process of a corporate debtor and do contain details which are commercial in nature and disclosure of such details about IP or corporate debtor could harm their competitive positions. While providing any information received from the IP, the competent authorities cannot be oblivious to the fact that by information disclosure, no harm is caused to the commercial transactions in corporate insolvency process or to the persons associated with the process. Accordingly, the requested information is exempted under section 8(1)(d) of the RTI Act.
6. Further, IBBI being the regulatory authority for IPs, receives the Forms in respect of processes under the Insolvency and Bankruptcy Code, 2016 and regulations made thereunder. Apart from the legal obligation of IP under the governing regulations to ensure confidentiality of the information relating to the insolvency resolution process, many of the information contained in those responses are received under this fiduciary relationship. I note that in *Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal (Civil Appeal Nos. 10044, 10045 and 2683 of 2010)*, Hon'ble Supreme Court of India observed that: "*Fiduciary relationships, regardless of whether they are formal, informal, voluntary or involuntary, must satisfy the four conditions for a relationship to classify as a fiduciary relationship. In each of the four principles, the emphasis is on trust, reliance, the fiduciary's superior power or dominant position and corresponding dependence of the beneficiary on the fiduciary which imposes responsibility on the fiduciary to act in good faith and for the benefit of and to protect the beneficiary and not oneself..... What would distinguish non-fiduciary relationship from fiduciary relationship or an act is the requirement of trust reposed, higher standard of good faith and honesty required on the part of the fiduciary with reference to a particular transaction(s) due to moral, personal or statutory responsibility of the fiduciary as compared to the beneficiary, resulting in dependence of the beneficiary.*"
7. I am convinced that there is fiduciary angle to the relationship between the IP and IBBI, and the disclosure of requested information is exempted under section 8(1)(e) also. I am also not satisfied as to how a larger public interest is involved. As such, I find no valid ground to outweigh the scope of exemptions under section 8(1)(d) and (e).
8. Further, with regard to Form IP-1, same contain personal details of the IP. In this regard, it is relevant to understand the scope of section 8(1)(j) of the RTI Act. Section 8(1)(j) exempts information which relates to personal information, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless a larger public interest justifies the disclosure of such information. If the information sought for is personal and has no relationship with any public activity or interest or it will not sub-serve larger public interest, and the Respondent is not legally obliged to provide that information. The Hon'ble Supreme Court in *Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizwi and Ors.* (Civil Appeal No. 9052 of 2012 (Arising out of SLP (C) No. 20217 of 2011) vide Order dated 13th December 2012 observed that –
"In terms of this provision, information which relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual would fall within the exempted category, unless the authority concerned is satisfied that larger public

interest justifies the disclosure of such information. It is, therefore, to be understood clearly that it is a statutory exemption which must operate as a rule and only in exceptional cases would disclosure be permitted, that too, for reasons to be recorded demonstrating satisfaction to the test of larger public interest. It will not be in consonance with the spirit of these provisions, if in a mechanical manner, directions are passed by the appropriate authority to disclose information which may be protected in terms of the above provisions.”

In *Canara Bank v. C.S. Shyam and Anr.* (Civil Appeal No. 22 of 2009) vide decision dated 31st August 2017, the Hon’ble Supreme Court observed as follows -

“In our considered opinion, the aforementioned principle of law applies to the facts of this case on all force. It is for the reasons that, firstly, the information sought by respondent No.1 of individual employees working in the Bank was personal in nature; secondly, it was exempted from being disclosed under Section 8(j) of the Act and lastly, neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information of the individual employee and nor any finding was recorded by the Central Information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No.1.”

In *H.E. Rajashekarappa v/s State Public Information Officer & Others*, Writ Petition No.10663 of 2006 (GM-RES) decided on, 01 July 2008, the Hon’ble High Court of Karnataka observed that –

“The object of the Act is to provide right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. In view of the above provisions excerpted, it cannot be said that Section 2(f) of the Act encompasses the personal information of the officials of the public authority. The intention of the legislation is to provide right to information to a citizen pertaining to public affairs of the public authority. Therefore, the respondent No.3 had no right under the Act to seek personal information of the petitioner...”

Further, the First Appellate Authority in *Dr. Shivani Sandesh Mayekar Vs. CPIO, SEBI, Mumbai* (Appeal No. 1608 of 2013) vide Order dated February 21, 2013 had also observed that -

“the disclosure of information relating to the name, designation, etc. of SEBI official(s), is exempt under sections 8(1)(g) and 8(1)(j) of the RTI Act. In view of these observations, I find that the respondent was justified in invoking the provisions of sections 8(1)(g) and 8(1)(j) of the RTI Act, in his response, while denying the information as sought by the appellant, through the instant query.”

In view of above, the disclosure of Form IP-1 is exempted under section 8(1)(j) of the RTI Act. Also, I am not satisfied how a larger public interest is involved which warrants the disclosure of such information.

9. Also, the Appellant has requested for confirmations from the Respondent, as to whether there are delays in the process as per IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Respondent is not expected to provide confirmations to the Appellant under the RTI Act. Same is beyond the scope of ‘information’ under the RTI Act.
10. With regard to RTI Applications dated 25.07.2024 and 24.07.2024 are concerned, it appears that the Appellant has not yet received the replies to the same. Accordingly, I direct the

Respondent to provide a reply to these RTI Applications to the Appellant within 10 days of receipt of this Order.

11. Accordingly, the Appeals are disposed of.

Sd/
(Jithesh John)
First Appellate Authority

Copy to:

1. Appellant, Pai Khot Parashar.
2. CPIO, The Insolvency and Bankruptcy Board of India, 7th Floor, Mayur Bhawan, Shankar Market, Connaught Circle, New Delhi- 110 001.