

**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: 19th September, 2023

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal Registration No. ISBBI/A/E/23/00030**

IN THE MATTER OF

UV Rao

... 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

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1. The Appellant has filed the present Appeal dated 27th August 2023, challenging the communication of the Respondent dated 25th August 2023 in his RTI application no. ISBBI/R/E/23/00098 filed under the Right to Information Act (RTI Act). In his RTI application, the Appellant has requested for the following -

“... 1. Claim document of India Resurgence ARC Pvt ltd , India RF , as it has acquired loan accounts from the Original Lender Religare Finvest Ltd , RFL on date 05 , Nov 2019 , the claim document must contain Statement of Accounts of RFL upto 04, Nov 2019 and India RF from the date 05 , Nov 2019 to 04, April 2022 . the date of CIRP commencement, date of submission, channel through which claim submitted eg. Through e-mail or courier or any other channel. Thus seeking following Documents.

- (i) Statement of Accounts RFL upto date 04, Nov 2019*
- (ii) Statement of Accounts India RF from the date 05, Nov 2019 to 04, April 2022*
- (iii) Date of Submission*
- (iv) Channel through which claim submitted with a proof of Delivery.*

2. Claim documents of Shriram City Union Finance Ltd, Aditya Birla Finance Ltd and ICICI Bank Ltd with the following information respectively

- (i) Statement of Accounts of above three from the date of Loan sanction 04, April 2022*
- (ii) Date of Submission*
- (iii) Channel through which claim submitted with a proof of Delivery.*

3. As per NOTIFICATION from MINISTRY OF CORPORATE AFFAIRS New Delhi, the 27, February 2019 S.O. 1091 E , the authorised representative on behalf of a Financial Creditor is one of the following :

- i) a guardian;*
- ii) an executor or administrator of an estate of a financial creditor;*
- iii) a trustee (including a debenture trustee; and*
- iv) a person duly authorised by the Board of Directors of a Company.*

Thus seeking the following documents from the Resolution Professional in respect of above four financial creditors whose claims submitted and admitted by the Resolution Professional:

- 3.1. Copy of Board Resolution from the above financial Creditors whose name is specified / authorised by the Board of Directors of Respective Financial Creditor company.
- 3.2. In case a POA (Power of Attorney) is attached, copy of the same having reference or relation to such Board Resolution.
- 3.3. According to Rules and Regulations of IBBI, how many number of authorised officers are permitted to nominate as Authorised Representative of Financial Creditor.
- 3.4. As the Resolution Professional has allowed more than 1 Authorised Representative except for Shriram City Union Finance Ltd., whether Rules and Regulations of IBBI permits to allow more than 1 Authorised Representative, if so – copy of such Rules and Regulations of IBBI may please be furnished.
- 3.5. If, as per Rules and Regulations of IBBI permits only one Authorised Representative for each creditor, verified authenticity of other participants before permitting their attendance in CoC meetings, if so seeking the document which authenticated attendance in CoC meetings.
- 3.6. If, as per Rules and Regulations of IBBI permits only one Authorised Representative for each creditor, whether the Resolution professional sought the approval of either the Adjudicating Authority or IBBI for such deviation, if so seeking the copy of the same, if not whether the act of permitting multiple Authorised Representatives for each Financial creditor is the discretion of the Resolution Professional, seeking copy of Rules and Regulations of IBBI permitting such discretionary powers to the Resolution Professional....”

2. The Respondent responded as follows -

“With regard to queries of Appellant, the Respondent has stated that ‘The Corporate Insolvency Resolution process of the Master Weaver Ethnic India Pvt Ltd, Corporate Debtor (CD) was initiated by Hon’ble NCLT vide order dated 04.04.2022 and the CD is currently under liquidation vide NCLT order dated 22.05.2023.

Mr. Malireddy Ramana Reddy is appointed as liquidator. The list of claims published by the RP as on 04.04.2022 on the website of IBBI, may be accessed through the below link. <http://ibbi.gov.in/en/claims/front-claim-details/9753>

Further information as sought under point 1, 2 and 3 and the claim documents including agreements, statement of accounts, board resolution for appointment of representatives etc. submitted by the creditors, is not available with the IBBI.”

3. Aggrieved by the same, the Appellant has submitted the following in the appeal: –

“... I am an aggrieved from the reply documents, which has not addressed any of the requests sought as given in Document in 3. RTi requests in Para from 1(i) to (iv), 2 (i) to (iii), 3.1 to 3.6. Hence, i request for the Information sought after in the larger Interest of Indian MSME Units, The information sought after is given in reference document no : 3. Annexed as RTi requests in Para from 1(i) to (iv), 2 (i) to (iii), 3.1 to 3.6. Any additional cost required for sharing the documents will be born by the undersigned, the sought after information may please be furnished through e-mail...”

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. Before dealing with matter in issue in the instant appeal, I deem it appropriate to examine the scope of information and right to receive it from a public authority. 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.

5. I note that the information requested by the Appellant *viz*, Statement of Accounts, date of submission of claims, channel of submission, copy of claims, Copy of Board Resolution, Copy of Power of Attorney, document which authenticated attendance of other members in CoC not available with the Respondent and the same is communicated to the Appellant. He cannot provide any other information. Further, the Respondent is expected to provide information as available on record and not create any information. Same is beyond the scope of 'right to information' under section 2(j) of the RTI Act which limits the information to one 'accessible' under the RTI Act and 'which is held by or under the control of any public authority'.
 6. It is settled position that the Respondent cannot be expected to create an information for sharing to a RTI Applicant. 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 that:
"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. Further, the queries regarding (i) how many number of authorised officers are permitted to nominate as Authorised Representative of Financial Creditor, (ii) whether Rules and Regulations of IBBI permits to allow more than 1 Authorised Representative and (iii) If, as per Rules and Regulations of IBBI permits only one Authorised Representative for each creditor, whether the Resolution professional sought the approval of either the Adjudicating Authority or IBBI for such deviation? are, in my view, are in nature of inquisitions soliciting response of the Respondent, and beyond the scope of right to information under the RTI Act. I note that the Respondent is not expected to furnish replies to hypothetical questions on interpretation of rules and regulations. Same is not covered in the scope of 'information'. As stated in the Guide on the RTI Act issued by the DoPT under OM No. 1/32/2013-IR dated 28th November 2013—
"The Public Information Officer is not supposed to create information that is not a part of the record of the public authority. The Public Information Officer is also not required to furnish information which require drawing of inference and/or making of assumptions; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions."
- Further, as held by Hon'ble Supreme Court of India in its judgment dated August 9, 2011, in the matter of *Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.*, inter alia, that:
- "A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority..."
8. The Respondent is not bound to respond to such inquisitions under the RTI Act. In this regard, it is also relevant to refer to the Order dated April 21, 2006, of the Hon'ble CIC in the matter *Dr. D.V. Rao Vs. Shri Yashwant Singh & Anr.*, wherein it was observed that: *"the RTI Act does not cast on the public authority any obligation to answer queries in which a petitioner attempts to elicit answers to his questions with prefixes, such as, 'why', 'what', 'when' and 'whether'. The petitioner's right extends only to seeking information as defined in section 2 (f) either by pinpointing the file, document, paper or record, etc., or by mentioning the type of information as may be available with the specified public authority."*

9. In view of the above, I do not find any reason to interfere with the response of the Respondent. Accordingly, the Appeal is disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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