

**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: 29th October, 2024

RTI Appeal Registration No. ISBBI/A/E/24/00038

IN THE MATTER OF

Ashish Mohan Gupta

... 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

ORDER

1. The Appellant has filed the present Appeal dated 27th September 2024, challenging the communication of the Respondent dated 18th September 2024 with regard to his RTI Application No. ISBBI/R/E/24/00167 dated 14th August 2024 filed under the Right to Information Act, 2005 (RTI Act). As this Appeal required detailed examination of provisions of RTI Act, same is disposed within 45 days instead of 30 days. In the RTI Application, the Appellant has requested for the following –

“Dear Sir

As per the newsletter published by IBBI for the period April to June 2024, the data shows that after the appointment of RP, 103 cases have been withdrawn/rejected/dismitted and 468 cases have been admitted in the Insolvency Resolution of Personal Guarantors. Out of 468 admitted cases, 146 have been closed. Of these 12 have been withdrawn, 108 have been closed because repayment plans were not submitted or rejected, and for 26 the repayment plan has got approval. (Page 24 of the newsletter) With reference to the above data, under the relevant provisions of Right to Information Act 2005, you are requested to provide the following details:

- 1. The list of 103 cases which have been withdrawn/rejected/dismitted*
- 2. The list of these 108 cases which have been closed because of repayment plans were not submitted or rejected.”*

2. The Respondent has replied the following –

“The details of personal guarantors against whom insolvency resolution process has been initiated is exempted from disclosure under section 8(1)(j) of the RTI Act, 2005 as the same relates to personal information of the respective individual.”

3. Aggrieved by the same, the Appellant has *inter-alia* stated the following in the Appeal –

*“I wish to state that the reply is not satisfactory as the information's sought are not exempted from disclosures under the RTI Act. Public notices are issued under IBC 2016 in various newspapers and also on the website of NCLT. One such sample notice is enclosed for your kind perusal as **Appendix – “C”**.*

It seems that reply was sent in order to just dispose of the application without any reasoning as the data is available in public domain and hence consolidated information was sought through the RTI.

*In view of above, your intervention is requested to obtain the information as sought, on **URGENT BASIS.***”

4. I have carefully examined the application, the response of the Respondent and the Appeal. Before examining the request, I deem it appropriate to deal with scope of ‘information’ and right to receive the information under the RTI Act. It is noted that 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.*”.
5. The aforesaid definition contemplates providing of material in the forms of records, documents, opinions, advice, etc. It does not include giving opinions on issues raised or providing clarifications or advice to inquiries. Section 2(j) of the RTI Act defines the “*right to information*” in term of information accessible under the Act which is held by or is under the control of a public authority and which can be disclosed subject to exemptions under section 8 of the RTI Act. Thus, if the public authority holds any ‘information’ in the form of data, statistics, abstracts, etc. an applicant can have access to the same under the RTI Act subject to exemptions under section. It is also clear that the “right to information” under section 3 of the RTI Act is circumscribed by RTI Act itself as the right is limited within scope of ‘information’ as defined under section 2(f) and is subject to other provisions including those under section 8 of the Act.
6. 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, the Respondent is not legally obliged to provide that information. The Hon’ble Supreme Court in *Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizvi 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.”

7. I hold that the name of persons against whom which have been withdrawn/rejected/dismissed/closed because of repayment plans not being submitted or rejected in Insolvency Resolution of Personal Guarantors, is exempted under section 8(1)(j) of the RTI Act. Further, 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 exemption under section 8(1)(j).
8. I also note that the information requested may also require compilation and classification of each case on the basis of reasons for closure because of repayment plans not being submitted or rejected in Insolvency Resolution of Personal Guarantors. In my view, compilation and collation of such information from the CPIO will also result in disproportionate diversion of resources of Insolvency and Bankruptcy Board of India. In this regard, it is pertinent to refer to section 7(9) of the RTI Act, which provides that - *An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.*” I also do not find any larger public interest for a direction to collate and compile the details of information and to provide the same to the appellant in the manner as he desires. Despite this, if the Respondent resorts to provide such information after collating and compiling the same in a single point, it would have to devote very large amount of resources and time. Such exercise would defeat ‘the practical regime of right to information’ as envisaged in the preamble of the RTI Act and would disproportionately divert the resources of IBBI. Hence, in my view, the information requested also gets hit by section 7(9) of the RTI Act.
9. In view of the above, I find no reason to interfere with the decision of the Respondent. The Appeal is disposed of accordingly.

Sd/
(Jithesh John)
First Appellate Authority

Copy to:

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