

**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: 3rd August, 2022

IN THE MATTER OF

Anil Kumar Ojha

... 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 Appellant has filed present Appeal dated 5th July 2022, challenging the communication of Respondent dated 15th June 2022 whereby he had denied the information requested by the Appellant vide his RTI Application No. ISBBI/R/P/22/00019 dated 17th May 2022 filed under the Right to Information Act, 2005 (RTI Act). The Appellant has requested for –

“1. File nothings & orders thereon on the complaint mentioned supra above.

2. Whether any inspection / investigation has been ordered in the matter ?

3. Has the RP Mr. C. Ramasubramaniam was called & questioned regarding the complaint and charges? Please provide a copy of the same, if any, along with the reply submitted by him (RP Mr. C. Ramasubramaniam)

4. The stage of the enquiry in the complaint filed?

5. What is the time limit for such inspection/ investigation to be completed?

6. What is the next stage post completion of the enquiry?

7. If any steps have been taken by the Board. And what are those steps.”

2. The Respondent denied the information stating that the “*Information sought is exempt under Section 8(1)(b) of the RTI Act, 2005 as action is pending in the process.*”
3. In his Appeal, the Appellant has submitted that the Adjudicating Authority has already passed a liquidation order in the matter (Corporate debtor being M/s SLO Industries Limited) and providing the requested information at this stage will not impede or hamper the process of investigation or apprehension or prosecution of offenders. Further, the Appellant is apprehending that the RP may submit false and misleading evidence before the investigating officials and he requires the information to point out any false and misleading information submitted by the RP.
4. In response to the Appeal, the Respondent has stated that: - “*... the information sought is subject matter of a pending process the scope of which is wider than the complaint, that providing of information*

during pendency could hamper the proceedings. Further, as per the provisions of the Code and the regulations made thereof the any further involvement of Complainant is not envisioned after submission of the complaint.”

5. 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 scope of information disclosure under the RTI Act is circumscribed by RTI Act itself. While the “right to information” flows from section 3 of the RTI Act, it is subject to other provisions of the Act. 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. In the instant case, the Respondent denied the disclosure of information as according to him the information is exempted under section 8(1)(h) of the RTI Act. In so far as scope of this exemption is concerned, the Respondent would be right to refuse to give information if the disclosure of such information would impede the process of investigation or apprehension or prosecution of the offender. The question, therefore, that falls for consideration is as to whether the reply to aforesaid queries, could impede the process of investigation or apprehension or prosecution.
6. I note that the complaints received by the Board are to be dealt in accordance with the provisions of Insolvency and Bankruptcy Board of India (Grievance and Complaint Handling Procedure) Regulations, 2017 (Regulations). These Regulations do not provide for furnishing of aforesaid information to the Appellant. Moreover, if any complainant has any grievance regarding disposal of his complaint, the remedy is available to him by filing review under regulation 7(5) of the Regulations.
7. It is trite to say that IBBI being the regulatory authority for Insolvency Professionals (IPs), conducts their inspection and investigations and take actions for violations by the IPs under the Code in respect of processes under the Insolvency and Bankruptcy Code, 2016. As the information requested by the Appellant is in relation to a pending process, therefore, the disclosure of such information is restricted under section 8(1)(h). Accordingly, the Respondent is not under obligation to provide such information.
8. Accordingly, in my view, the information as requested by the Appellant cannot be disclosed to him under the RTI Act.
9. The appeal is disposed of accordingly.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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