

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION

बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली - 110067
Munirka, New Delhi-110067

File no.: - CIC/MOCMI/A/2019/104714

In the matter of:

Avtar Singh Vinayak

... Appellant

VS

Central Public Information Officer,
Insolvency and Bankruptcy Board of India (IBBI),
7th Floor, Mayur Bhawan, Connaught Place,
New Delhi- 110001

... Respondent

RTI application filed on	:	24/11/2018
CPIO replied on	:	27/12/2018
First appeal filed on	:	02/01/2019
First Appellate Authority order	:	18/01/2019
Second Appeal Filed on	:	28/01/2019
Date of Hearing	:	12/01/2021
Date of Decision	:	12/01/2021

The following were present:

Appellant: Not present

Respondent: Shri Sunil Kumar, Dy General Manager and CPIO; Advocate Abhishek Kumar, present over VC

Information Sought:

The appellant has sought the following information with reference to the appointment of the Interim Resolution Professional (IRP) in the matter of IDBI Bank Ltd Versus Jaypee Infratech Ltd:

1. Provide the action taken on the complaint letter dated 03/11/2018 with earlier letters dated 11/09/2018 & 15/10/2018) against the said IRP. Provide the status of the above complaint letters till date alongwith all the relevant documents including file notings, if any.

2. Provide the action taken by IBBI on the reply received from IRP on his above said letters. Provide the relevant documents.
3. Provide the total amount of money spent by the IRP Sh. Anuj Jain on the construction work in Jaypee Wishtown, Noida from the date of his appointment as IRP on 09/08/2017 to till date. Provide the break-up of month wise expenditure done on the construction till date.
4. And other related information

Grounds for Second Appeal

The CPIO has provided evasive and misleading information.

Submissions made by Appellant and Respondent during Hearing:

The appellant was not present at the VC venue despite due service of notice on 31.12.2020 vide speed post acknowledgment no. ED663718409IN. In his second appeal he contested the reply of the CPIO in respect of points no. 3 to 7 of the RTI application. He alleged that the CPIO by simply stating that information sought is not available attempted to evade and conceal the requisite information pertaining to the working of IRP.

The appellant further submitted that the CPIO wrongly and falsely replied to the Queries No. 3 to 7 that the information is not available since the entire requisite information is available with the Interim Resolution Professional who is directly under the supervision and control of the regulatory body IBBI, the sought for information could have been easily obtained from the IRP and furnished to the appellant. The Regulatory Body is fully empowered under section 196(h) of the IBC 2016 to call for any record from the resolution professional. However, it is apparently out of intent of concealment of information that the CPIO outrightly denied furnishing of information in three words and that too after consuming full 30 days to delay as much as possible. He further submitted that even the Queries No. 1 & 2 have been evasively and vaguely replied to by the CPIO without furnishing relevant supporting documents.

The Commission also received written submissions from the appellant in which he reiterated the contents of his second appeal and summed up stating that the regulatory authority can gather information from the authority on which it has supervisory control. So the PIO, IBBI could have gathered information from the Resolution professional as was requested in the application. He also

mentioned that due to the ongoing pandemic he may not be able to attend the hearing and his submissions may be considered to dispose of the case.

The CPIO submitted that the contents are wrong and denied. He submitted that, the issue raised by the appellant that for queries no. 3 to 7 information could have been obtained by IBBI under Sec 196(h) of the Code from IRP, who is under direct supervision and regulatory control of IBBI, is untenable. Although the IRP is a regulated entity of the IBBI, however, the IRP is a professional, proposed by the creditors and appointed by NCLT/AA for conducting the CIRP of Corporate debtor which is not a public authority, under the supervision of the Adjudicating Authority. In respect of points no. 1 & 2 of the RTI application, he submitted that as the letters dated 15.10.2018 and 03.11.2018 of the applicant relating to the letter dated 11.09.2018 were under process, the information sought under this query was not provided at that stage. He further submitted that the complaints were closed and the appellant was duly informed regarding the same. On a query by the Commission he submitted in respect of points no. 3 to 7 that the information sought is not maintained by them. The information as to expenditure incurred by Resolution professional is not maintained by them.

Observations:

It was noted that an interim reply was given in respect of points no. 1 & 2 at that point of time. The CPIO can provide an updated reply in this regard to the appellant. As far as points no. 3 to 7 is concerned, the information sought is related to a third party and to some extent personal in nature.

Decision:

As discussed above, the CPIO is directed to provide an updated reply in respect of points no. 1 & 2 of the RTI application within 7 days from the date of receipt of the order. As far as points no. 3 to 7 are concerned, no relief can be given as the information is not maintained by the respondents. Further, it was suitably explained why the information cannot be collected from the record holder.

The appeal is disposed of accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011- 26182594 /

दिनांक / Date

