

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

7th Floor, Mayur Bhawan, Shankar Market,
Connaught Circus, New Delhi -110001

Dated: 13th August, 2024

RTI Appeal Registration No. ISBBI/A/E/24/00020

IN THE MATTER OF

Gaurav

... Appellant

Vs.

Central Public Information Officer

The Insolvency and Bankruptcy Board of India

7th Floor, Mayur Bhawan, Shankar Market,

Connaught Circus, New Delhi -110001.

... Respondent

ORDER

1. The Appellant has filed present Appeal dated 15th July 2024, challenging the communication of the Respondent dated 12th July 2024 with regard to his RTI Application No. ISBBI/R/E/24/00095 dated 6th June 2024 filed under the Right to Information Act, 2005 (RTI Act).

2. The request of the Appellant and the response of the Respondent is as follows -

<i>Information sought</i>	<i>Reply</i>
<i>1. File notings of the complaint and subsequent investigation.</i>	<i>As the matter has yet to attain its finality, the information sought is exempted under section 8(1)(b) of the Right to Information Act, 2005.</i>
<i>2. Copy of order passed in the matter</i>	<i>No such order has yet been passed in the matter</i>

3. In the appeal, the Appellant has *inter-alia* stated that when the complaint is disposed of as communicated, the information cannot be withheld that too from the complainant in the case.
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 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 under section 8(1)(h) of the RTI Act. In the context of such response of CPIO, I deem it appropriate to examine the scope of provisions of section 8(1)(h) of the RTI Act, which reads as under: -
“*(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, (b) information which would impede the process of investigation or apprehension or prosecution of offenders;*”
5. In so far as scope of this exemption is concerned, the Respondent would be right to refuse to give information which would impede the process of investigation or apprehension or prosecution of offenders. The question, therefore, that falls for consideration is as to whether

disclosure of “File notings of the complaint and subsequent investigation”, would impede investigation or apprehension or prosecution of offenders.

6. It is pertinent to note that in *Director of Income Tax v. Bhagat Singh*, LPA No. 1377/2007 and CM No. 17355/2007, the Delhi High Court observed that, “Under Section 8(1)(h) information can be withheld if it would impede investigation, apprehension or prosecution of offenders. It is for the appellant to show how and why investigation will be impeded by disclosing information to the appellant. General statements are not enough. Apprehension should be based on some ground or reason.” Further, in *Bhagat Singh v. Chief Information Commissioner*, 146 (2008) DLT 385, the Delhi High Court observed that : “Access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore be strictly construed. It should not be interpreted in manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1)(h) and other such provisions would become the haven for dodging demands for information.” In *S. Mathur v. Public Information Officer of Delhi HC* [W. P. (C) 295/2011], the Delhi High Court observed that “As regards Section 8(1)(h) RTI Act, which is the only provision invoked by the Respondent to deny the Petitioner the information sought by him, it will have to be shown by the public authority that the information sought “would impede the process of investigation.” The mere reproducing of the wording of the statute would not be sufficient when recourse is had to Section 8(1)(h) RTI Act. The burden is on the public authority to show in what manner the disclosure of such information would “impede” the investigation. Even if one went by the interpretation placed by this Court in W.P. (C) No.7930 of 2009 [Additional Commissioner of Police (Crime) v. CIC, decision dated 30th November 2009] that the word “impede” would “mean anything which would hamper and interfere with the procedure followed in the investigation and have the effect to hold back the progress of investigation”, it has still to be demonstrated by the public authority that the information if disclosed would indeed “hamper” or “interfere” with the investigation, which in this case is the second enquiry..”
7. I note that the requests of the Appellant are in connection with enforcement action which is pending in a Disciplinary Proceedings. Such inquisition, in my view may impede pending enforcement action of IBBI and even if construed as ‘information’ request, any disclosure by answering such inquisition would be covered under specific exemption provided under section 8(1)(h) of the RTI Act.
8. In view of the above, I find no reason to interfere with the decision of the Respondent. The appeal is, accordingly, disposed of.

Sd/
(Jithesh John)
First Appellate Authority

Copy to:

1. Appellant, Gaurav.
2. CPIO, The Insolvency and Bankruptcy Board of India, 7th Floor, Mayur Bhawan, Shankar Market, Connaught Circus, New Delhi -110001.