

**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: 19th December, 2024

RTI Appeal Registration No. ISBBI/A/E/24/00043

IN THE MATTER OF

Ishrat Ali

... 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 present Appeal *vide* letter dated 18th November 2024, challenging the reply of the Respondent with regard to his RTI Application No. ISBBI/R/E/24/00192 dated 18th September 2024 filed under the Right to Information Act, 2005 (RTI Act). As this RTI required detailed analysis of provisions of RTI Act, the appeal is disposed in 45 days instead of 30 days. The request of the Appellant and the reply of Respondent were as follows –

Sl. No.	RTI Request	RTI Reply
1.	The Official Website of the Ld. I.B.B.I. shows that one Mrs. Anagha Anasingaraju is the Resolution Professional of Mirco Dynamics Private Limited w.e.f. 28.03.2022. In this respect, it is understood that the NCLT, Mumbai Bench passed an Order on 25.02.2022 admitting IBC Sec. 7 Application CP(IB)-4108/MB/2018 in respect of a SME Company namely Mirco Dynamics Pvt. Ltd. but the said Order “admittedly” reached the Registry of NCLT, Mumbai only on 29.03.2022. On this very date, a certified copy of the said Order was issued by the Registry, NCLT, Mumbai Bench to the Parties and prior to this date, “OFFICIALLY” there was No Order available to/with anyone including the Registry, NCLT, Mumbai Bench. I seek the following information under the Right to Information Act 2005:	The source of information is the regulatory compliance forms filed by the Insolvency Professionals with IBBI for respective CIRPs.

	1. Kindly inform me the SOURCE of this Information to Ld. IBBI (which in turn Ld. IBBI displayed on its official website) that Mrs. Anagha was appointed the Resolution Professional of Mirco Dynamics Private Limited w.e.f. 28.03.2022.	
2.	Kindly inform me the “AUTHORITY / ENTITY” which appointed Mrs. Anagha as Resolution Professional of Mirco Dynamics Private Limited as per the record available with Ld. IBBI. A copy of such appointment be kindly provided.	In terms of section 16 of the Insolvency and Bankruptcy Code, 2016, the Interim Resolution Professional is appointed by the Adjudicating Authority.
3.	Mrs. Anagha has executed an AFFIDAVIT on dated 27 June 2024, wherein she, upon solemn affirmation, has stated that she was appointed Resolution Professional of Mirco Dynamics Private Limited by the NCLT, Mumbai Bench on 25.02.2022, whereas the IBBI website shows the date of her appointment as 28.03.2022 (a gap of more than one month) and name of authority appointing her is missing. Kindly provide me information as regards precise date of her appointment as Resolution Professional of Mirco Dynamics Pvt. Ltd. and kindly provide information as to who appointed her, as per the official record available with Ld. IBBI, along with copy of the document from where the IBBI gathered the information & posted it on its official website.	As per the information available, and also published in website of IBBI, Ms. Anagha Anasingaraju was appointed as Interim Resolution Professional on 25.02.2022. The Committee of Creditors in its meeting dated 28.03.2022 had resolved to appoint Ms. Anagha Anasingaraju as the Resolution Professional.

2. Aggrieved by the same, the Appellant has filed the present appeal requesting the following reliefs –

“A1. Specific Information as regards the SPECIFIC SOURCE / RECORD from where the IBBI LEARNT and RECORDED that the RP was appointed on 28.03.2022 be disclosed and a copy of the same may kindly be made available to this Appellant. This is to be appreciated that FORM A was published on 30.03.2022 and Order copy was uploaded on 31.03.2022 (the order was first made available by the NCLT Bench to its own Registry only on 29.03.2022 and before that RP was appointed).

A2. Copy of Relevant Compliance Forms, in addition to the Form showing RP’s appointment date to be 28.03.2022, wherein the DATE OF COMMENCEMENT OF CIRP has been communicated by the IP to Ld. IBBI be made available to this Appellant.

NOTE : *This prayer does not amount to expanding the Scope of RTI Application. This is simply because the CPIO's reply mentions that Source of Information is with reference to Regulatory Compliance Form filed by IP for respective CIRP. Admission Order reached Registry, NCLT, Mumbai on 29.03.2022 whereas CIRP appears to commence BEFORE ADMISSION ORDER coming to Registry hence SOURCE OF INFORMATION sought in RTI Application shall include this in its logical and reasonable scope."*

3. 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 Appellant's "*right to information*" envisaged in section 3 of the RTI Act is subject to the provisions of the Act. 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. Further, 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. 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 8.
4. With regard to point (1), the Appellant had requested for 'Source' of information. The Respondent has replied that the source is regulatory compliance forms filed by the Insolvency Professionals with IBBI for respective CIRPs. The regulatory compliance forms of IBBI in the context of corporate insolvency resolution process range from CIRP 1 to CIRP 8. It is from these Form filings from which IBBI got information. As such, I am satisfied that Respondent has adequately provided information of the source of information.
5. Further, the Appellant has requested for copy of above Forms. The particulars of Form CIRP 1-8 are filed by the IPs in the context of a corporate insolvency resolution process and *inter-alia* deals with commercial information / trade secrets such as terms of engagement, details of authorised representative, details of creditors, information about claims, details of valuers, details of applications filed before the Adjudicating Authority, expression of interest, evaluation matrix, details of resolution applicants, resolution plan, information about preferential, undervalued, fraudulent and extortionate credit transactions, etc.. The said online platform hosted on the website of the IBBI at <https://www.ibbi.gov.in> is to facilitate filings by registered IPs for the purposes of monitoring corporate insolvency resolution processes. The IP is allowed to access the said platform with the help of a unique username and password provided by the IBBI, after affixing DSC or after e-signing. This being the nature of e-filing by IPs, it is concluded that the same involve trade secrets and disclosure of the same has every probability of impact competitive position of the corporate debtor, insolvency professional and other stakeholders and compromising such competitive position.
6. Further, the communications between the IP and IBBI, are related to a corporate insolvency resolution process of a corporate debtor and do contain details which are commercial in nature and disclosure of such details about IP or corporate debtor could harm their competitive positions. While providing any information received from the IP, the competent

authorities cannot be oblivious to the fact that by information disclosure, no harm is caused to the commercial transactions in corporate insolvency process or to the persons associated with the process. Accordingly, the requested information is exempted under section 8(1)(d) of the RTI Act.

7. Further, IBBI being the regulatory authority for IPs, receives the Forms in respect of processes under the Insolvency and Bankruptcy Code, 2016 and regulations made thereunder. Apart from the legal obligation of IP under the governing regulations to ensure confidentiality of the information relating to the insolvency resolution process, many of the information contained in those responses are received under this fiduciary relationship. I note that in *Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal (Civil Appeal Nos. 10044, 10045 and 2683 of 2010)*, Hon'ble Supreme Court of India observed that: "*Fiduciary relationships, regardless of whether they are formal, informal, voluntary or involuntary, must satisfy the four conditions for a relationship to classify as a fiduciary relationship. In each of the four principles, the emphasis is on trust, reliance, the fiduciary's superior power or dominant position and corresponding dependence of the beneficiary on the fiduciary which imposes responsibility on the fiduciary to act in good faith and for the benefit of and to protect the beneficiary and not oneself.... What would distinguish non-fiduciary relationship from fiduciary relationship or an act is the requirement of trust reposed, higher standard of good faith and honesty required on the part of the fiduciary with reference to a particular transaction(s) due to moral, personal or statutory responsibility of the fiduciary as compared to the beneficiary, resulting in dependence of the beneficiary.*"
8. I am convinced that there is fiduciary angle to the relationship between the IP and IBBI, and the disclosure of requested information is exempted under section 8(1)(e) also. 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 exemptions under section 8(1)(d) and (e).
9. The appeal is, accordingly, disposed of.

Sd/
(Kulwant Singh)
First Appellate Authority

Copy to:

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