

**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: 16th March, 2023

IN THE MATTER OF

C. S. Maurya

... 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 the present Appeal dated 17th February 2023, challenging the communication of the Respondent dated 14th February 2023 with regard to his RTI Application No. ISBBI/R/P/23/00002 dated 16th December 2022 (received by IBBI on 21st December 2022) filed under the Right to Information Act, 2005 (RTI Act). The request of the Appellant and the reply of the Respondent was as follows –

| Sl. No. | Information Sought | Response of CPIO |
|---------|--|---|
| 1. | <i>Break up of data on Cases allotted to Mr. Debashish Nanda, (IP) IBBI Reg. No. IBBI/IPA-003/IP-N00040/2017-18/10316 from the date of empanelment.</i> | <i>Details of Corporate Debtor, Orders pronounced by AA, Claims of Creditors and status of CIRP are available in public domain and may be accessed on the URL → https://ibbi.gov.in/en/claims/corporate-personals and https://ibbi.gov.in/en/ips-register/view-ip/1 .</i> |
| 2. | <i>Break up of data on Cases allotted to Mr. Debashish Nanda, (IP) IBBI Reg. No IBBI/IPA-003/IP-N00040/2017-18/10316 from the date of empanelment.</i> | |
| 3. | <i>Details of assignment to RP Mr. D Nanda from the date of empanelment to till now in the tabular form. 1st Name of CD & City 2nd CIRP Order date 3rd Appointment date 4th Appointed as 5th FCs Claims 6th HBs Claims 7th Total Claims 8th Present status 9th Litigations if any 10th Remarks on the 33 Assignment given to him till now.</i> | |
| 4. | <i>To ascertain abnormal delays in the CIRP for whatever reasons, like in our case RNA Corp Private Ltd CIRP for more than 3</i> | |

| | | |
|--|---|--|
| | <i>years since 26/11/2019 are in other cases too to decide my further course of action.</i> | |
|--|---|--|

2. Aggrieved by the response of the Respondent, the Appellant has submitted the following in this Appeal: –
“1. No competent authority or Court or anybody will accept compiling such data as authentic unless the IBBI will provide me duly attested information to enable me to use it my further course of legal/ administrative action because the Insolvency is such a Legal Brahmastra which stalled all the running cases against the Corporate Debtors Stalled form the date of NCLT Order. Further due to CIRP the abnormal delay of more than 3 years we the Home Buyers are sufferers for which the RP as the Chief of the CIRP is responsible.

2. In view of the above I require the information as per my RTI in the tabular form duly authenticated by the concerned officials for the present for future legal and administrative action requirements.”
3. 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.”* Section 2(j) 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 provided therein.
4. In this case, it is noted that the information asked is available in public domain and on the website of the Board and can be easily accessed by the Appellant from the link provided to him by the Respondent. It is relevant to refer to the decision of Hon’ble CIC in Shri Girish Prasad Gupta vs. CPIO, Indian Oil Corporation (decided on March 30, 2015), wherein it has held that:- *“.., we note that the information that is placed by a public authority on its website is already available in the public domain and is, therefore, not under the control of the public authority. It can be obtained by any interested person by consulting the relevant website. If public authorities are required to provide hard copies of the information, already available on their website as part of suo motu disclosure, such suo motu disclosure will become futile, because the very purpose of such disclosure is to ensure that applicants do not have to approach public authorities to get a good deal of information already placed by them on their website.”* I am of the view that no fault can be found on the part of the Respondent as the Appellant has been provided with the link of website and he can have access to the same.
5. There is no quarrel that the Appellant has access to the requested information. However, he wants the said information in a tabular form duly attested by the officials of IBBI. There is no doubt that the ‘right to information’ in section 2(j) of RTI Act includes the right to taking notes, extracts, or certified copies of documents or records. But this right extends to those documents that are held and available with the public authority. The Respondent is not

required to provide copies of the requested information, which were available in public domain, as held by the Commission in the matter of *K. Lall Vs. M.K. Bagri* (File no. CIC/AT/A/2007/00112) that:-

"It shall be interesting to examine this proposition. Section 2(j) of the RTI Act speaks of 'the right to information accessible under this Act which is held by or under the control of any public authority.....' The use of the words 'accessible under this Act'; 'held by' and 'under the control of' are crucial in this regard. The inference from the text of this subsection and, especially the three expressions quoted above, is that an information to which a citizen will have a right should be shown to be -

- a) an information which is accessible under the RTI Act and*
- b) that is held or is under the control of a certain public authority.*

This should mean that unless information is exclusively held and controlled by a public authority, that information cannot be said to be information accessible under the RTI Act. Inferentially it would mean that once a certain information is placed in the public domain accessible to the citizens either freely, or on payment of a predetermined price, that information cannot be said to be 'held' or 'under the control of' the public authority and, thus would cease to be an information accessible under the RTI Act."

6. The information in question is that which is accessible and furnishing of authenticated or attested copies as asked for is not mandated under section 2(j). On the subject of certified copies, I deem it appropriate to refer to the order of Hon'ble CIC in the matter of *Mr. V T Gokhale vs Securities and Exchange Board of India* decided on 27th August 2010 wherein it was advised that: *"certified copies" is a specific category of documents and should not be confused with "authenticated copies" or "true copies". The word "certified copies" occurs in Sections 74 and 76 of the Indian Evidence Act. The use of this expression in Section 2(j) of the RTI Act is only in the context of its use in Sections 74 and 76 of the Indian Evidence Act. There can be no other description of the word "certified copies". CPIO may make a note that issue of certified copies, when demanded by any petitioner, has to be in terms of Sections 74 and 76 of the Indian Evidence Act.* As the information asked for is not held or controlled as document or record, no duty is fastened on the respondent to collate and create documents and attest it for the purpose of information disclosure under the RTI Act to the Respondent. Hon'ble Supreme Court in decision dated 09th August, 2011 in the matter of *CBSE & Anr. Vs. Aditya Bandopadhyay & Ors.* (C.A. No. 6454 of 2011) held:

"35..... But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant..... 67..... The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing information furnishing, at the cost of their normal and regular duties"

7. The matter has been further clarified by the Division Bench of Hon'ble Delhi High Court in its decision in *The Registrar of Supreme Court of India vs Commodore Lokesh K Batra & Ors.* dated 07th January 2016 (LPA 24/2015 & CM No. 965/2015) wherein it was held that:

“15. On a combined reading of Section 4(1)(a) and Section 2(i), it appears to us that the requirement is only to maintain the records in a manner which facilitates the right to information under the Act. As already noticed above, “right to information” under Section 2(j) means only the right to information which is held by any public authority. We do not find any other provision under the Act under which a direction can be issued to the public authority to collate the information in the manner in which it is sought by the applicant.”

8. Accordingly, I do not find any reason to interfere with the decision of the Respondent.
9. In view of the above, the Appeal is disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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