

EXECUTIVE DIRECTOR AND FIRST APPELLATE AUTHORITY  
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

2<sup>nd</sup> Floor, Jeevan Vihar Building,  
Sansad Marg, New Delhi- 110 001

Dated: 23<sup>rd</sup> October, 2020

RTI Appeal Registration No. ISBBI/A/E/20/00019

IN THE MATTER OF

A Bhatia

..... Appellant

Vs.

Central Public Information Officer

Insolvency and Bankruptcy Board of India  
2<sup>nd</sup> Floor, Jeevan Vihar Building Sansad  
Marg, New Delhi- 110 001.

..... Respondent

ORDER

1. This appeal is borne out of the application under Right to Information (RTI) bearing Registration no. ISBBI/R/E/20/00123. The information sought by the appellant under section 6 of the Right to Information Act, 2005 (Act) and the reply given by the respondent are as under:

Sl. No.	Information Sought	Reply by CPIO
1.	Submit Model Timeline Vs actual timeline achieved for Dream Procon Pvt Ltd under insolvency with reasons for delay and action taken to remove delay if any	<p>The model timeline for corporate insolvency resolution process (CIRP) is provided under Regulation 40A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 which is available at <a href="https://ibbi.gov.in/uploads/legalframework/2020-08-17-234040-pjor6-59a1b2699bbf87423a8afb5f5c2a0a85.pdf">https://ibbi.gov.in/uploads/legalframework/2020-08-17-234040-pjor6-59a1b2699bbf87423a8afb5f5c2a0a85.pdf</a></p> <p>The CIRP in the matter of Dream Procon Pvt. Ltd., commenced on 6<sup>th</sup> September, 2019 and is presently ongoing. Invitation for expression of interest in Form G issued by the Resolution Professional is available at: <a href="https://www.ibbi.gov.in/resolution-plans">https://www.ibbi.gov.in/resolution-plans</a></p>

2. In this appeal, the appellant has stated that the requested information was not provided by CPIO, and hence, this appeal is filed with the FAA to provide the following information:
- Actual timeline (each and every task) vis-à-vis Model Timeline
  - Reasons for delay

c. Action taken to remove delay.

3. In this regard, comments of the respondent were called for. The respondent has submitted that Regulation 39(4) of CIRP Regulations provides for submission of a compliance certificate in Form H by the Resolution Professional to the Adjudicating Authority, when resolution plan approved by the CoC is submitted before the Adjudicating Authority. Para 10 of Form H deals with details of Model Timelines under Regulation 40A and Actual Timeline. No information with respect to Form H in the CIRP of CD concerned, is available with the Board.
4. In regard to the issue relating to the information requested at paragraph 2(a) above, it may be noted that the CPIO is not supposed to create information which otherwise is not available with him. The following observations of the Hon'ble CIC in *Shri H. Tiwari v. Airport Authority of India in Appeal No. CIC/RK/A/2016/000911/MP*, dated August 10, 2017, is relevant in this respect:

*"...The Commission observes that the CPIO, under the RTI Act, is required to furnish information/documents as available on record and is not supposed to collect and collate information in the manner in which it was sought by the appellant. The Hon'ble Supreme Court in decision dated 09/08/2011 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."*

The matter has been further clarified by the Division Bench of the Hon'ble Delhi High Court in its decision in the *Registrar of Supreme Court of India Vs. Commodore Lokesh K Batra & Ors.* dated 07/01/2016 [LPA 24/2015 & CM No. 965/2015], holding as under:

*"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."*

This being the position, this FAA agrees with the submission of CPIO that there is no requirement to create information on Actual timeline (each and every task) vis-à-vis Model

Timeline in the matter of Dream Procon Pvt Ltd., as the same was not available with the Insolvency and Bankruptcy Board of India. Accordingly, this issue is held against the appellant.

5. As regards the information requested at paragraph 2(b) and (c) above, this FAA noted that the CPIO is not required to provide reasons for delay or suggest actions taken to remove delay. In this connection, the order of the Hon'ble High Court of Bombay, in the matter of *Dr. Celsa Pinto, Ex-Officio Joint Secretary (School Education) vs The Goa State Information Commission* on 3<sup>rd</sup> April, 2008 (2008 (110) Bom L R 1238) is relevant for consideration. It was held that:

*“Section 2(f) - 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; The definition cannot include within its fold answers to the question “why” which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information.”*

Further, in the Guide on Right to Information Act, 2005 issued vide OM No. 1/32/2013-IR dated 28<sup>th</sup> November, 2013 of DoPT, it is stated that:

*“The Public Information Officer is not supposed to create information that is not a part of the record of the public authority. The Public Information Officer is also not required to furnish information which require drawing of inference and/or making of assumptions; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.”*

The observations of the Hon'ble Supreme Court in the matter of *CBSE & Anr. Vs. Aditya Bandopadhyay & Ors., SLP(C) NO. 7526/2009* is also relevant, wherein it was held that:

*“... A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”*

This being the position, the information requested at point 2(b) and (c) above is also held against the appellant.

6. With the above finding, the appeal is disposed of.

(Sd/-)

**(K. R. Saji Kumar)**

Executive Director and First Appellate Authority

**Copy to:**

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