

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

2nd Floor, Jeevan Vihar Building,
Sansad Marg, New Delhi- 110 001

Dated: 25th October, 2020

RTI Appeal Registration No. ISBBI/A/E/20/00020

IN THE MATTER OF

Mr. Satyen Gupta

..... 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. This appeal is borne out of the application under Right to Information (RTI) bearing Registration No. ISBBI/R/E/20/00114. 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.	<i>I am in receipt of attached letter dated 06.08.2020 from Mr Methil Unnikrishnan GM on my review application. In this letter, he has mentioned that IBBI has sought the clarification from the Resolution Professional Mr Nilesh Sharma for the draft of undertaking requested by him under Regulation 36(4) of the IBBI (Insolvency Resolution Process for Corporate Persons), Regulations, 2016 As the copies of following documents were not provided along with above mentioned letter, thus I would like to have the copies of these</i>	<i>Reply was provided as per attachment sent by CPIO.</i>

<p><i>letters under the provision of RTI Act a. Could you provide the copy of the letter sent by the IBBI to the resolution professional? b. Could you provide the copy of the response submitted by the Resolution Professional Mr. Nilesch Sharma? Appreciate to have these details at the earliest under the provisions of RTI Act. -- Regards Satyen Gupta</i></p>	
--	--

2. In this appeal, the appellant's grievance against the CPIO is that:

"...he provided copy of two applications. Which are being sent on your email id. These e-mails are not the actual emails, rather appears to be modified."

Therefore, the appellant has requested this FAA to provide him duly certified copies of such e-mails.

3. In this regard, comments of the respondent were called for. The respondent has submitted that the names and designations of the officers appearing in the emails (between the Board and RP) furnished to the applicant under RTI, were severed under section 8(1)(g) of the RTI Act.
4. In this connection, the FAA noted that section 10 of the Act allows severance of exempted information from the said information as follows:

"10. (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing —

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;*
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;*
- (c) the name and designation of the person giving the decision;*
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and*

(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.”

Further, Section 8(1)(g) exempts the following information:

*“(g) information, the disclosure of which would endanger the life or physical safety of any person or **identify the source of information or assistance given in confidence for law enforcement or security purposes.**”*

5. It is seen that the respondent has provided a part of the information as requested for by the appellant. However, he has claimed exemption from disclosure of the name of the person who sent the email at the appellate stage. It is clear that the appellant only wanted to have the copies of the letters sent to the resolution professional from the Board and the response provided by him and nothing else. Applying the provisions of section 8(1)(g) of the Act, it comes out to be that disclosure of identity of the person in the Insolvency and Bankruptcy Board of India who sent the emails is not likely to endanger his/her life or physical safety as such emails have been sent in the ordinary course of official business and not in any personal capacity of the person. Moreover, if exemption was to be claimed for severance of the name of the person who sent the email, the respondent had to comply with the provisions of section 10(2) of the Act at the time of rejecting access to the information. Had the respondent expressed any apprehension regarding exemption under section 8(1)(g) of the Act at the time of disclosure of information, he would have complied with the requirement of section 10(2). Since the respondent has not claimed exemption at the time of disclosing part of the information, this FAA feels that such a plea at the appellate stage is not maintainable.
6. In this context, the FAA noted that the Hon’ble CIC in *P Praveen Kumar Vs. CPIO, Central Vigilance Commission* [File No: *CIC/CVCOM/A/2017/120855/SD*] vide Order dated 29th April, 2019, observed as follows:

*“In the instant case, keeping in view the apprehensions of the CPIO, Section 8(1)(g) of RTI Act can at best be invoked to **obliterate only the names, designations and any other identifying particulars of the other officers from the relevant file noting(s), correspondences and letters.***

In view of the foregoing, Commission directs the CPIO to provide relevant and available information sought in the RTI Application with respect to the investigation held against the Appellant. In doing so, CPIO is at liberty to obliterate (by way of blacking out or severance) the names, designations and identifying particulars of any other individual figuring in the records except that of the Appellant. This shall be done in consonance with the provisions of Section 10 of RTI Act.”
7. The appellant has requested the FAA to provide him certified copies of the emails. Although the appellant is not entitled to certified copies of such e-mails at the appellate stage, it is found that he is doubtful about genuineness of the emails and, that is the reason for his asking for the

name of the person who sent them for and on behalf of the Board. Further, it is felt that the disclosure of the name of the person who sent the email is not likely to endanger his/her life or physical safety as the emails have been sent as part of official duty. In any case, the source of the requested information is the Board, which has already been disclosed by the respondent and the person who sent the email is only a representative of the Board acting in official capacity.

8. In view of the above, the appeal succeeds and the respondent is directed to provide the requested information without obliterating the name of the sender of emails within 15 days from the date of this order.

(Sd/-)

(K. R. Saji Kumar)

Executive Director and First Appellate Authority

Copy to:

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



LEGALERA
BY THE PEOPLE. FOR THE PEOPLE. OF THE PEOPLE