

**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: 28th March, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00008

IN THE MATTER OF

Utility Premises Private Limited

... 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 present Appeal dated 4th March 2022, challenging the communication of the Respondent dated 3rd March 2022 with regard to his RTI Application No. ISBBI/R/E/22/00040 dated 3rd February 2022 filed under the Right to Information Act, 2005 (RTI Act). The information sought in the Application is as follows:

“This is regarding the status of the complaint filed to Sbri. Manish Kumar M. Chaudhari on 19.08.2021 at the Insolvency and Bankruptcy Board of India, under section 217 of the insolvency and bankruptcy code, 2016 read with section 7 under the Prevention of corruption act, 1988 against Mr. Sri Gopal Chaudhary, IRP (registration no. IBBI/IPA-001/IPP-01238/2018-19/11893.

The complainant has submitted this RTI seeking following information: -

- 1) The stage of the inquiry for complaint filed ?*
- 2) Has there any steps taken and what are those steps?*
- 3) Has the IRP been called and questioned regarding the complaint and charges ?*
- 4) What is the time limit for such inspection/ investigation to be completed?*
- 5) What is the next stage post the completion of the inquiry?”*

2. The Respondent had stated that under RTI Act, only citizens can seek information and since the Applicant is not a citizen, it is not eligible to seek information under RTI Act.

3. In this Appeal, the Appellant has stated that “...as per the order by CIC in *Namita Pattanaik v. PIO, EPFO and also reiterated in J.C.Talukdar vs. C.E.(E) CPWD Kolkata where, The Commission rejected the contention of the CPIO that the Act does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. The objective of the Right to Information Act is to secure access to information to all citizens in order to promote transparency and accountability. The Hon’ble Supreme Court in Bennett Coleman Co. Vs. Union of India (1972) 2 SCC788 held that a shareholder is entitled to protect...of Article 19 and that an individual’s*

right is not lost by reason of the fact that he is a share holder of the company. Therefore via this appeal it is requested to kindly provide us with the information sought in the RTI application.”

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. It is noted that in terms of 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.” 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. Thereafter, section 3 of the RTI Act states that “subject to the provisions of this Act, all citizens shall have the right to information.”

5. In the context of section 3, the Hon’ble CIC has vide Order dated 13th June 2016 in *M/s. Devas Multimedia Pvt. Ltd. Vs. Central Public Information Officer, Department of Space (File No. CIC/SH/A/2014/002787, File No. CIC/SH/A/2014/002788)* observed that -
 - (a) *The RTI Act gives the Right to Information only to citizens of India and not to Corporations and Companies etc. which are legal entities / persons, but not citizens.*
 - (b) *An office bearer of a company can seek information under the RTI Act on behalf of the company, provided he is a citizen of India. His identifying himself as the office bearer of the company or filing the application on the letterhead of the company does not take away his right to raise queries under the RTI Act.*
 - (c) *The RTI applications and the subsequent appeals should be signed by the same person, with his name mentioned on the same.*
 - (d) *Since an office bearer, seeking information on behalf of his company, would be construed to be a citizen seeking the information, he would need an authorization from the Board of the company to receive the information concerning its affairs from the Respondent public authority.”*

6. I also note that the Hon’ble CIC in *Namita Pattanaik Vs. PIO, EPFO, Rourkela (CIC/EPFOG/A/2017/107853)* vide Order dated 24.04.2017 observed as follows:

“The Commission rejects the contention of the CPIO that the Act does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/ persons, but not citizens. The objective of the Right to Information Act is to secure access to information to all citizens in order to promote transparency and accountability.....

4. In *J.C. Talukdar vs. C.E.(E) CPWD Kolkata (CIC/WB/C/2007/00104 & 105 dated 17 May 2007)*, the CIC observed as follows:

“This is at heart a question of whether a company or its director will fall under the definition of citizen under the RTI Act. A company or a corporation is a “legal person” and, as such, it has a legal entity. This legal entity is distinct from their shareholders, managers, managing directors. This is a settled position in law since the Solomon’s case decided long back by the House of Lords. They have rights and obligations and can sue and are sued in a court of law. Section 3 of the RTI Act confers “right to information” on all “citizens”. A “citizen” under the Constitution Part II that deals with “citizenship” can only be a natural born person and it does not even by implication include a legal or a juristic person... Even if it were conceded that a company

or a corporate body is a legal entity distinct from its shareholders and it is not in itself a citizen it is a fact that all superior courts have been admitting applications in exercise of their extraordinary jurisdiction from companies, societies and associations under Article 19 of the Constitution of which the RTI Act, 2005 is a child. Very few petitions have been rejected on the ground that the Applicants / Petitioners are corporate bodies or companies or associations and as such not “citizens”. This Commission also has been receiving sizeable number of such applications from such entities. If the courts could give relief to such entities the PIOs also should not throw them out on a mere technical ground that the Applicant / Appellant happened to be a legal person and not a citizen. In conclusion we direct that an application / appeal from an association or a partnership firm or a Hindu Undivided Family or from some other group of individuals constituted as a body or otherwise should be accepted and allowed.”

7. Thus, in light of above, I note that under section 3, all the citizens have the right to information. I also find that the Applicant’s name in the RTI Application and the Appellant’s name in the RTI Appeal is provided as ‘Utility Premises Private Limited’ and it is the company which is seeking information under the RTI act. However, in the RTI Appeal, the gender of the Appellant has been filled as ‘Male’. It is not clear as to how a company/corporate person can be categorised as ‘male’ or ‘female’. This *prima facie* shows that the Appellant has attempted to procure the information misguiding to be an individual citizen. This approach is certainly discouraged.
8. However, I am also of the view that rejecting the information request on such technical grounds would not be in the spirit of the RTI Act which promotes transparency.
9. Considering the above, I find it appropriate to direct the CPIO to deal with the information request of the Appellant on its merits within 10 days and provide the information as per law.
10. Accordingly, the appeal is disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

1. Appellant, Utility Premises Private Limited.
2. CPIO, The Insolvency and Bankruptcy Board of India, 2nd Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.