

**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: 22nd November, 2021

RTI Appeal Registration No. ISBBI/A/E/21/00029

IN THE MATTER OF

Jitender Kumar Jain

... 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 25th October 2021, challenging the communication of the Respondent dated 22nd October 2021 with regard to his RTI Application No. ISBBI/R/E/21/00171 dated 21st October 2021 filed under the Right to Information Act, 2005 (RTI Act).
2. 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. I note that the Appellant had, in his Application, requested for *“copies of the year wise disclosure of asset made by all the employees of IBBI from 2016 to date.”* This request was declined by the Respondent stating that - *“Information sought is exempted from disclosure under section 8(1)(j) of the RTI Act as the same is in the nature of invasion of privacy of individuals.”* In the Appeal, the appellant has stated that *“information is mandatory disclosure under the Indian law and still it is not denied”*.
3. It is pertinent to mention that scope of information disclosure under the RTI Act is circumscribed by RTI Act itself. While the *“right to information”* flows from section 3 of the

RTI Act, it is subject to other provisions of the Act. 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(1)(a) to 8(1)(j) of the RTI Act. Section 8 (1)(j) of the RTI Act prohibits disclosure of personal information unless there is an element of public interest involved. Said section 8(1)(j) reads as under: -

“(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:”

4. Section 8(1)(j) exempts disclosure of personal information, the disclosure of which: - (i) has no relationship to any public activity or interest; or (ii) would cause unwarranted invasion of the privacy of the individual. However, in both the cases, the Central Public Information Officer or the appellate authority may order disclosure of such information, if they are satisfied that larger public interest justifies disclosure. This would imply that personal information which has some relationship to any public activity or interest may be liable to be disclosed. An invasion of privacy may be held to be justified if the larger public interest so warrants.
5. The annual disclosure of assets made to IBBI by it’s employees are personal information of employees. The disclosure of assets is made by employees in fiduciary capacity and held in confidence. In W.P.(C) 1191/2012 in the matter of *Allahabad Bank v. Gyanender Kumar Shukla*, the Hon’ble Delhi High Court dated 09.07.2013 had held that:

*“4. The question whether information with respect to the assets and liabilities of an employee exempted under Section 8(1)(j) of the Act or not came up for consideration before the Apex Court in *Girish Ramchandra Deshpande Vs. Cen. Information Commr. and Ors.* (2013) 1 SCC 212. In the case before the Supreme Court, the Commission had denied details of the assets and liabilities, movable and immovable property of an employee on the ground that the information sought qualified to be personal information, as defined in Clause (j) of Section 8 (1) of the Act. Aggrieved by the order passed by the Commission, the appellant before the Supreme Court, preferred a writ petition which came to be dismissed by the Single Judge. An appeal preferred by*

him was also dismissed by a Division Bench of the High Court. Being aggrieved from the order passed by the Division Bench, he approached the Apex Court by way of Special Leave. Dismissing the Special Leave Petition, the Apex Court, inter alia, held as under:- "...14. The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under Clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information."

5. It would, thus, be seen that the information with respect to the assets and liabilities of an employee, which he discloses to his employer in compliance of the Service Rules applicable to him qualifies as personal information within the meaning of Section 8(1)(j) of the Act and such information cannot be directed to be disclosed unless the CPIO/PIO/Appellate Authority is satisfied that larger public interest justifies disclosure of such information. It goes without saying that such satisfaction needs to be recorded in writing before an order directing disclosure of the information can be passed. A perusal of the impugned orders would show that in neither of these cases, the Commission was satisfied that larger public interest justified disclosure of the information sought by the applicant/respondent. Without being satisfied that larger public interest justified disclosure of the information sought in this regard, the Commission could not have passed an order directing disclosure of information of this nature..."

6. It is noted that the Appellant has failed to make out any case that the information asked by him has any relationship to any public activity or interest. The Appellant has also failed to disclose any public interest much less the larger public interest involved in seeking such information of the individual employees. It is the case of the Appellant that impugned information disclosure is mandatory under the RTI Act. Undoubtedly, the RTI Act has been enacted with avowed object of dissemination of information and ensuring transparency in the functioning of the Public Authorities. At the same time, it also incorporates the provisions to check and prevent its misuse by diverting the focus of Public Authorities from their main purpose and forcing them to work under fear and threat of penalty under RTI Act. In this regard, it is useful to refer to the following observation of the Hon'ble Supreme Court of India in the matter of *Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.* (Judgment dated August 9, 2011):

“Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. 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 prioritising ‘information furnishing’, at the cost of their normal and regular duties.”

7. As disclosure of personal information as asked by the Appellant has no relationship to any public activity or interest and disclosure of which would cause unwarranted invasion of the privacy of the individual employees, I agree with response of Respondent that the disclosure of copies of the year wise disclosure of assets made by all the employees of IBBI is exempt under sections 8(1)(j) of the RTI Act.
8. In view of the above, I find that there is no need to interfere with the decision of the Respondent. The appeal is accordingly dismissed.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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