

**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: 17th September, 2021

RTI Appeal Registration No. ISBBI/A/E/21/00021

IN THE MATTER OF

Abhishek Goel

... Appellant

Vs.

Central Public Information Officer

The Insolvency and Bankruptcy Board of India
2nd Floor, Jeevan Vihar Building
Sansad Marg, New Delhi- 110001

... Respondent

ORDER

1. Vide his RTI Application No. ISBBI/R/E/21/00133 dated 17th July 2021 filed under the Right to Information Act, 2005 (RTI Act), the Appellant had sought information which was disposed of by the Respondent -Central Public Information Officer - IBBI on 13th August, 2021. The Appellant has filed present Appeal dated 24th August 2021 stating as under:

“The response to the RTI filed has been received vide letter dated 13.08.2021. As per the response provided by IBBI, it does not maintain the details of total number of insolvency cases filed, disposed and rejected alongwith debt written off/ waived or haircut given to lenders. The details have to be maintained by the Information Utility agency to be managed by IBBI and thus, the information should have been provided by IBBI.”

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. From the above submissions of the Appellant, it is noted that he is dissatisfied with the response of the Respondent with respect to 2 out of his total 6 requests made in his Application. According to the Appellant, the information is maintained by the Information Utility managed by IBBI and thus, the said information should have been provided by IBBI.
3. It is pertinent to mention here that the Appellant’s “right to information” flows from section 3 of the RTI Act and the said right is subject to the provisions of the Act. 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. Further, 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. 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 under section 8. Admittedly, the data asked by the Appellant in his first two requests are not

available with IBBI and it cannot be expected to ask, collect and collate non- available data from another agency and provide the same to applicants under RTI Act. In this regard, the following observation Hon'ble Supreme Court in *CBSE & Anr. Vs. Aditya Bandopadhyay & Ors*, SLP(C) NO. 7526/2009 are worth relying:

"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. 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."

4. Further, the Hon'ble CIC in *Shri Alok Shukla vs. CPIO, SEBI*, CIC/SM/A/2012/001838, vide order dated 23rd May 2013 had held that *"While dealing with RTI, we should not forget that information means only an existing material record. The CPIO can provide the copy of the available records; he cannot create new records in order to address specific queries of the Appellant."*
5. Apart from above settled position, I further note that the issue raised by the Appellant has been directly addressed by Hon'ble CIC in *Avtar Singh Vinayak, v. CPIO, IBBI* (Case No. CIC/MOCMI/A/2019/104714) decided on 12th January 2021 in following words:-

"...The CPIO submitted that the contents are wrong and denied. He submitted that, the issue raised by the appellant that for queries no. 3 to 7 information could have been obtained by IBBI under Sec 196(b) of the Code from IRP, who is under direct supervision and regulatory control of IBBI, is untenable. Although the IRP is a regulated entity of the IBBI, however, the IRP is a professional, proposed by the creditors and appointed by NCLT/AA for conducting the CIRP of Corporate debtor which is not a public authority, under the supervision of the Adjudicating Authority.

... As far as points no. 3 to 7 are concerned, no relief can be given as the information is not maintained by the respondents. Further, it was suitably explained why the information cannot be collected from the record holder."

6. In view of the above, I find that there is no need to interfere with the decision of the Respondent.
7. The appeal is accordingly disposed of.

-sd-

Santosh Kumar Shukla
First Appellate Authority

Copy to:

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