

**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 August, 2020

RTI Appeal Registration No. ISBBI/A/E/20/00016

IN THE MATTER OF

Mr. Prashant Rao

..... 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) Registration No. ISBBI/R/T/20/00022. 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:

<i>Sl. No.</i>	<i>Information Sought</i>	<i>Reply by CPIO</i>
1.	<i>Is Part V Miscellaneous of Insolvency and Bankruptcy 2016 provision a valid legal bill Part V Miscellaneous of Insolvency and Bankruptcy 2016 fund is it still valid as a legal provision</i>	<i>Section 224 of the Insolvency and Bankruptcy Code, 2016 relating to Insolvency and Bankruptcy Fund is a valid legal provision and the same has not been notified yet.</i>

2. The ground of appeal according to the appellant is: *Provided Incomplete, Misleading or False information.*
3. In this appeal, the appellant has requested for the following information:

‘1 the reason for not notifying and not giving motion to the legal provisions in Section 224 in Part V - miscellenous of the insolvency and bankruptcy fund in I and B act 2016.

2 please note that the answer in RTI dated 21/07/2020 states that there is notification of the legal provisions in Section 224 in Part V - miscellenous of the insolvency and bankruptcy fund in I and B act 2016.

3 Has the administrator been appointed by Central Government to administer the fund Section 224 in Part V – miscellenous of the insolvency and bankruptcy fund in I and B act 2016.’

4. With reference to RTI request No. 1 by the appellant above, the respondent has submitted that the CPIO is not required to provide any reasons under the RTI Act, 2005 for non-notification of Section 224 of the Insolvency and Bankruptcy Code, 2016 by the Government.
5. In this connection, this FAA notes that 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 3rd 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 28th 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.”

6. The above being the position, this FAA is satisfied that no information can be provided by the respondent to the appellant in terms of RTI request No. 1.

7. As regards RTI request No. 2, the respondent has submitted that ‘*section 224 of the Insolvency and Bankruptcy Code, 2016 has not been notified*’ and, accordingly, there is no notification that can be provided to the appellant. The FAA agrees with this submission of the respondent, and, hence, the issue needs no further determination.
8. With respect to RTI request No. 3, the respondent has submitted that the said request was not part of the original RTI request, and, hence, the same should not be considered in the appeal stage. In this regard, this FAA noted that the appellant had not requested the aforesaid information in his original RTI request. Allowing such a request at the appellate stage would result in expanding the scope of RTI application which is impermissible. The Hon’ble CIC in its order in the matter of *Shri Harish Prasad Divedi Vs. Bharat Petroleum Corporation Ltd. in Case No. CIC/LS/A/2013/001477SS* observed:

“7. Having heard the submissions and perused the records, the Commission agrees with the Respondents that the information now sought by the Appellant in the present appeal did not form part of his original RTI application. Therefore, the Commission is not in a position to allow the disclosure of the information which had not even been sought by the appellant in his RTI application. An information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage. No disclosure can, therefore, be directed to be made in the present appeal of the Appellant.” In the light of the above, the information sought for as above, is not required to be dealt with by this FAA.

9. Accordingly, this appeal fails and is dismissed.

(Sd/-)

(K. R. Saji Kumar)

Executive Director and First Appellate Authority

Copy to:

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