

**BEFORE THE EXECUTIVE DIRECTOR AND FIRST APPELLATE AUTHORITY  
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

2<sup>nd</sup> Floor, Jeevan Vihar Building  
Sansad Marg, New Delhi- 110 001

**Dated: 3<sup>rd</sup> June, 2024**

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI  
Appeal**

**RTI Appeal Registration Number - ISBBI/A/E/24/00012**

**IN THE MATTER OF**

**Ritika Kansal**

... Appellant

Vs.

**Central Public Information Officer**

The Insolvency and Bankruptcy Board of India

2<sup>nd</sup> Floor, Jeevan Vihar Building

Sansad Marg, New Delhi - 110 001.

... Respondent

1. The Appellant has filed present Appeal dated 4<sup>th</sup> May 2024, challenging the communication of the Respondent dated 3<sup>rd</sup> May 2024 with regard to his RTI Application No. ISBBI/R/E/24/00053 dated 02<sup>nd</sup> April 2024 filed under the Right to Information Act, 2005 (RTI Act). The information sought in the Application and the reply of the Respondent is as follows:

Information sought	Reply
1. The total number of pending Show Cause Notices issued to Insolvency Professionals (IPs) as of 31 <sup>st</sup> March 2024.	The total number of pending Show Cause Notice till 31 March 2024 was 47.
2. The average disposal time for a Show Cause Notice from the date of issuance to the date of final decision.	The information sought is not maintained by the Board.
3. Detailed information on the requisite permissions and approvals required before the issuance of a Show Cause Notice to an Insolvency Professional, including the process followed by the Board.	As per amended Delegation of Powers and Functions of IBBI, power of approval of Show Cause Notice to IP rests with Executive Director. Show cause notices are issued to IP in terms of Section 219 of Insolvency and Bankruptcy Code, 2016 read with Regulations 11 and Regulations 12 of IBBI (Inspection and Investigation) Regulations, 2017.
4. The procedure in detail on how Show Cause Notices are being issued to Insolvency Professionals.	As per amended Delegation of Powers and Functions of IBBI, power of approval of Show Cause Notice to IP rests with Executive Director. Show cause notices are issued to IP in terms of Section 219 of Insolvency and Bankruptcy Code, 2016 read with Regulations 11 and Regulations 12 of IBBI (Inspection and Investigation) Regulations, 2017.

<p>5. Data breakdown showing the number of Show Cause Notices categorized by their status in the process. Specifically:</p> <ul style="list-style-type: none"> <li>- The number of Show Cause Notices for which hearings have already been completed.</li> <li>- The number of Show Cause Notices for which the Insolvency Professionals have submitted their replies.</li> <li>- The number of Show Cause Notices for which replies from the Insolvency Professionals are still pending.</li> </ul>	<p>The data sought is not maintained in the format as sought here.</p>
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- I have carefully examined the RTI Application, the response of the Respondent and the Appeal and find that the matter can be decided based on the material available on record. Before examining the request, I deem it appropriate to deal with scope of information and right to receive the information under the RTI Act. It is noted that 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.” The aforesaid definition contemplates providing of material in the forms of records, documents, opinions, advice, etc. It does not include giving opinions on issues raised or providing clarifications or advice to inquiries. 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. 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 and exceptions provided in other sections of the RTI Act.
- The Appellant has appealed in respect of point 2, 3 and 5 above. This Appeal is disposed on 31<sup>st</sup> day as it took me time to read through the documents, precedents and the dispose the same with reasons. In respect of point 2, the Appellant has submitted that ‘... the CPIO has failed to provide the average disposal time for Show Cause Notices, which is a vital piece of information essential for evaluating the performance of the Insolvency and Bankruptcy Board of India (IBBI) in discharging its statutory duties... The Appellant further submits that this information is crucial for understanding the efficiency and effectiveness of the regulatory mechanism in place, which directly impacts the public interest. In light of the above, the Appellant respectfully requests that the Hon'ble First Appellate Authority direct the CPIO to provide the average disposal time for Show Cause Notices at the earliest, as this information is not prohibited under the RTI Act, 2005....’ 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. Section 2(j) of the RTI Act defines the “right to information” in terms of information accessible under the Act which is held by or is under the control of a public authority. It is settled position that the CPIO cannot be expected to create an information for sharing to a RTI Applicant. The Hon’ble CIC in *M Jameel Basba Vs. CPIO, Ministry of Personnel Public Grievances & Pension, Department of Personnel & Training, North Block, New Delhi -110001, File No: CIC/MPERS/A/2017/158527/SD* (Decision dated 06.05.2019), has observed that: “Commission concedes with the submission of the CPIO as no information has been sought as per Section 2(f) of the RTI Act. It may be noted that under RTI Act, CPIO is not supposed to create information or interpret/clarify/deduct information in respect of queries/clarifications. Similarly, redressal of grievance, non-compliance of rules, contesting the actions of respondent public authority and suggesting correction in government policies are outside the purview of the RTI Act.”

I also note that Hon'ble Supreme Court of India in its judgment dated August 9, 2011 in the matter of *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors.* had held that a public authority is "...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." The Respondent is expected to provide information as available on record and not create any information. Accordingly, as the information is not maintained by IBBI, same is communicated to the Appellant. He cannot provide any other information. Same is beyond the scope of 'right to information' under section 2(j) of the RTI Act which limits the information to one 'accessible' under the RTI Act and 'which is held by or under the control of any public authority'.

4. In respect of point 3, the Appellant has requested for 'detailed information' on the permissions and approvals required. The Respondent has provided relevant information in reference to Delegation of Powers and Functions of IBBI. The Appellant has submitted that the Respondent has not provided 'procedural aspects of issuing Show Cause Notices'. From the above, I note that Appellant has asked for vague queries by use of phrases like 'detailed information' and 'procedural aspects'. The Respondent is expected to provide 'information' as defined in the RTI Act and not provide replies to such vague queries. In the matter of *Shri Harmit Singh Vs. Central Excise Department, Chandigarh* (Order dated November 07, 2008) the Hon'ble CIC *inter alia* held that the respondents therein were right in rejecting the request as it is quite unclear and vague and no specific information can be identified on the basis of the signals contained in the query.
5. With regard to point number 5, the Appellant wants the Respondent to provide the data in a format. The Respondent has submitted that the data is not maintained in the format requested. I am of the view that this kind of requests in the RTI application and the appeal would go against the letter and spirit of the RTI Act and affect the regular work of the Respondent. In this regard, it is useful to refer to the following observations 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 nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. 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."*
6. I note that the Respondent provided the readily available information to the Appellant in the manner that could be done by him within the scope of the RTI Act. In my view, the form in which the appellant is insisting the information from the CPIO will result in disproportionate diversion of resources of Insolvency and Bankruptcy Board of India (IBBI). In this regard, it

is pertinent to refer to section 7(9) of the RTI Act, which provides that - *An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.*”

7. Also, I do not find any larger public interest for a direction to collate and compile the details of information and to provide the same to the Appellant in the manner as she desires. Such exercise would defeat ‘*the practical regime of right to information*’ as envisaged in the preamble of the RTI Act and would disproportionately divert the resources of IBBI. I note that the Hon'ble CIC in the matter of *Shri Praveen Agarwal Vs. SEBI (Order dated October 1, 2008)* held that it is not open to appellant to saddle a public authority with elaborate queries, response to which could not be given without the public authority straining itself to wade through large volumes of information and data. Section 7(9) clearly forbids this form of disclosure.
8. In view of above, the Appeal is, accordingly, disposed of.

**Sd/**  
**(Jithesh John)**  
First Appellate Authority

**Copy to:**

1. Appellant, Ritika Kansal.
2. CPIO, The Insolvency and Bankruptcy Board of India, 2<sup>nd</sup> Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.