

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

2nd Floor, Jeevan Vihar Building
Sansad Marg
New Delhi- 110001.
Dated: 30th April, 2020.

Appeal No. ISBBI/A/E/20/00005

IN THE MATTER OF

Mr. Mohit Rasiklal Mehta

..... Appellant

Vs.

Central Public Information Officer
Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, Shankar Market
New Delhi – 110001.

..... Respondent

ORDER

1. This is an appeal against the reply given by the respondent in Right to Information (RTI) Registration No. ISBBI/R/E/20/00003. In the RTI application, 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:

Sl. No.	Information Sought	Response of Respondent
(1)	<i>“Seeking name of all those registered valuer by IBBI who are in employment in any body corporate as a Managing Director, Executive Director, Director, Whole Time Director.</i>	<i>A person in employment is not eligible to seek registration under the Companies (Registered Valuers and Valuation) Rules, 2017 (“Valuation Rules”). The said condition is satisfied while granting registration.</i>
(2)	<i>Seeking date of suspension of their membership in RVO and registration with IBBI under rule 26(1)(b) and other rules regarding Registered valuers.</i>	<i>The information sought is unavailable.</i>
(3)	<i>Seeking number of registered valuer against whom disciplinary action is taken by IBBI either suo motto or based on the receipt of complaint against such registered valuer who are in employment</i>	<i>Status of employment is ascertained at the time of registration of valuers and the same is undertaken in accordance with the Valuation Rules. Further, the Valuation Rules provide for</i>

	<i>however not surrender their membership with RVO and Registration with IBBI and issuing valuation reports of companies assets in the Insolvency matters, liquidation matters and various valuations under companies act, 2013.</i>	<i>continuous compliance with eligibility norms and also provides for disciplinary mechanism in case of non-compliance. Insofar no such non-compliance has been brought to the notice of the Authority.</i>
(4)	<i>Seeking any circular issued by Ministry of Corporate affairs or any other authority excluding and exempting registered valuer registered with IBBI under rule 6(6), who are Managing Directors, Whole Time Directors, Directors, and Executive Director and various other types of Directors cannot be treated as a employee and should not be considered in employment. This information i am not seeking in regards to Independent Directors who are not an employee of the Body Corporate and cannot be involved in day to day business of company hence cannot sign valuation report.</i>	<i>All related circulars are available at https://ibbi.gov.in/legal-framework/circulars.”</i>

2. The appellant submits that the respondent did not use IBBI’s letterhead and stationary while replying to the appellant. He further submits that the reply to the RTI was not signed by the respondent and the particulars of the appellate authority was not indicated in the reply as is usually done. The respondent submits that the reply was uploaded on the RTI portal (portal) being maintained by the Central Government. The portal can be accessed only by a user id and password which is in the possession of the respondent only. Therefore, the respondent submits that there is no question of any unauthorised reply being uploaded on the portal. The respondent further submits that the RTI was filed online and the portal itself shows the particulars of the appellate authority and in the instant case, the appellant had preferred this appeal via the portal. Moreover, the website of the IBBI has provided all the particulars, including the address, contact number and email ids, of the respondent as well as the first appellate authority. On examination of records, it is found that the appeal was disposed of on the portal on 27/03/2020 and because of the nationwide lockdown due to COVID-19, the signed hard copy of the reply could not be posted to the address of the appellant.

Query No. (1)

3. The appellant submits that it is known to everyone that many individual registered valuers are in employment and the details are available with the IBBI. Employment records are uploaded to the Ministry of Corporate Affairs with registrar of companies which is public information and IBBI has access to the database of the MCA. According to the appellant,

error is committed by IBBI in giving registration and continuing registration of registered valuer who is a director. The respondent submits that appeal is assumptive of the information available with the IBBI, false declaration by the applicants and self-understanding of employment and reiterated that a person in employment is not eligible to seek registration under the Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules) which has to be satisfied while granting registration. Para 26 of Part II of Annexure II of the Valuation Rules, states that a member of an RVO shall make an application for temporary surrender of membership if he takes up employment. Reading para 26 with rule 3(1) and 7(a) of the Valuation Rules, shows that a registered valuer cannot be in employment as long as he is registered with the IBBI as a registered valuer. Therefore, the underlying premise of the question is unfounded and thus, there is no need to interfere with the reply of the respondent. If the appellant has any specific information about anyone in employment practicing as a registered valuer, then the same may be brought to the notice of the valuer division of IBBI along with sufficient proof so that action can be taken by the IBBI against such person.

Query No. (2)

4. The appellant submits that the answer to the query can be sought from the RVO by the IBBI, which is the regulator of these RVOs. The respondent submits that the second query is an extension of the first query and as the answer to the first query was in the negative, no information can be provided for the second query. I agree with the submissions of the respondent and thus, there is no need to interfere with the reply of the respondent.

Query No. (3)

5. The appellant submits that the information provided for this query is incorrect. The respondent contests the submission of the appellant. On examination of the records available with the IBBI, it is found that no such action as indicated by the appellant has been taken by the IBBI and the same information was shared with the appellant. I agree with the submissions of the respondent and thus, there is no need to interfere with the reply of the respondent.

Query No. (4)

6. The appellant submits that the copy of the circular was not provided, and the link provided did not have the circular sought. The respondent relying on the decision of the Hon'ble Supreme Court in *Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.* (Civil Appeal No. 6454 of 2011), wherein it was held that a public authority is not required to furnish information which require drawing of inferences and/or making of

assumptions, submits that to reply to the query of the appellant, he will have to make inferences or assumptions, which is not allowed under the Act. Despite the orders of the SC in this regard, the respondent for the benefit of the appellant provided the link to all the circulars published by the IBBI for his perusal which is sufficient to answer the query raised. Thus, there is no need to interfere with the reply given by the respondent.

7. In view of the above, the appeal is devoid of merit and is thus, dismissed.

(Sd/-)

(K. R. Saji Kumar)

Executive Director and First Appellate Authority

Copy to

1. Appellant, Mr. Mohit Rasiklal Mehta.
2. CPIO, Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, New Delhi.