

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

2nd Floor, Jeevan Vihar Building 2
Sansad Marg
New Delhi- 110 001.
16th March, 2020.

IN THE MATTER OF

Mr. Chetankumar J Shah

.....

Appellant

Versus

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

.....

Respondent

ORDER

1. The present Appeal No. ISBBI/A/E/20/00001 dated 18th February, 2020 received in the office of this First Appellate Authority (FAA) under the Right to Information Act, 2005 (Act) has been preferred by Mr. Chetankumar J Shah against the order of the respondent with respect to his RTI Request No. ISBBI/R/E/20/00018.
2. The appellant sought the following information pertaining to the IBBI Valuation Examination in the Asset Class: Securities or Financial Assets:

“I have appeared IBBI - Valuation Examination in the Asset Class: Securities or Financial Assets conducted by NISM , six times and getting failed with the marginal marks hence herewith I am requesting you to pl. provide the Answersheet and question paper in which I am failed so that I may rectify my mistakes. All the six Marksheets are attached herewith. I need all six Question Paper and Answersheet or Details of Answer Given by me.”

3. The respondent provided information that the applicant cannot be provided the details as the disclosure of answers to questions will violate the integrity of the question banks hence it is exempted under Section 8(1)(d) of the Act. The respondent provided information as follows:

“The examinations conducted by the IBBI are multiple choice questions wherein

the questions appear to candidates randomly from live question banks which are currently in use. The information sought by the applicant cannot be provided as the disclosure of answers to questions will violate the integrity of the question banks.”

4. The appellant raised the present appeal on the ground that, *“I need only Questions paper alongwith answers given by my.. I have not requested Answer sheet. Pl. provide only question papers asked in my exams and if possible then answers which i had given so that I may correct my mistakes..I am not asking answersheet”*
5. The respondent and the officer, who is dealing with the matter referred to in the RTI request have been heard. The appeal and the relevant records have been examined. Comments of the respondent was sought as to the reason for not disclosing information as stated by the appellant. The respondent submitted that the examinations conducted by the IBBI are MCQ based online examinations wherein the questions presented to the candidate are randomly drawn from the live question banks. The information sought cannot be provided as the disclosure of the questions and/or answers to the said questions will violate the integrity of the question banks namely, breach the confidentiality/secretcy of the question banks.
6. In this connection, it is relevant to consider provisions of section 8 of the Act, which, inter alia, provides as under:
“(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, -
 xxxxxxxx
(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
 xxxxxxxx.” (Emphasis supplied)
7. The Hon’ble Central Information Commission (CIC) in *R. Seshadri Vs. CPIO, Medical Council of India, Delhi and Ors.* that:
“... the question papers comprise only of multiple choice questions and are such which cannot be carried out from the examination hall by the examinees and in which examination there is an express prohibition against copying or carrying out of the question papers. The Commission, having perused the Supreme Court’s decision in the Institute of Chartered Accountants of India vs. Shaunak H. Satya ((2011) 8 SCC 781) quoted by the appellant and the decisions of the Commission, cited by the respondent, is of the view that disclosure of information sought by the appellant will not only seriously compromise the quality of the examination process but would endanger the safely of the public.”
8. A similar issue in *Manish Kumar Sharma vs. CPIO, NBE [CIC/YA/A/2014/001131]*, a Bench of the Hon’ble CIC took a purposive

interpretation of section 8 of the Act and held:

“In light of the facts brought out by the respondent, the Commission accepts the contention that examination under reference falls in the category of Super Specialty and as such, the question papers & model answers thereof cannot be disclosed to the appellant...”

9. In the present matter, the questions asked in the Valuation Examination are the property of the Board and are held in confidence. The said set of questions are subject to repetition and reuse in the various upcoming Examinations. The IBBI prepares, updates and maintains a pool of questions for repeated use. Many questions are repeated on a random basis. The Examinations are conducted only online. The candidates appearing for online Examination is not in a position to take printouts. The questions alone or the questions and the corresponding answers together are also not provided, to the appellant or any of the candidates who appear for the Examination. Hence, the disclosure of the same will not only be against the confidentiality and integrity of the entire Examination process but also affects the competitive position of the other aspirants. The appellant will have an undue advantage if he is provided with questions and answers separately after the Examination as he will possess a list of questions that are likely to be repeated in the future Examinations. Moreover, the disclosure of corresponding questions would result in IBBI incurring a huge expenditure since the setting up of question papers entails intellectual efforts and related expenditure. As a consequence of the increase in expenditure, the Board may also be required to off-set the estimated surge by increasing the examination fee, to be submitted by potential professionals, by a considerable amount. Hence, the cost of disclosing the questions and the answers given by a candidate is huge and against the public interest.
10. In view of the foregoing, the information requested for by the appellant could not have been provided by the respondent and the appeal is thus dismissed.

-sd-

(K R Saji Kumar)

Executive Director and First Appellate Authority

Copy to

1. Mr. Chetankumar J Shah
2. CPIO, Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, New Delhi