

**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: 09th December, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00048

IN THE MATTER OF

T Sujesh Nair

... 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. The Appellant has filed present Appeal dated 21st November 2022, challenging the communication of Respondent dated 21st October 2022 stating that the “*Information sought is in the nature of seeking opinion and the same is not covered under the definition of information under section 2(f) of the RTI Act, 2005*”.
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. It is noted that the Appellant had *vide* his RTI Application No. ISBBI/R/E/22/00250 dated 19th October 2022 filed under the Right to Information Act, 2005 (RTI Act), requested for the following: –
“... My query here is why is there is no equal transparent platform for valuers to bid and win a valuation assignment? If it exists, which is the equal opportunity transparent platform available to valuers? Will giving IP, RP, CoC the sole authority to select a valuer for any given insolvency related valuations lead to monopolistic market with high possibility of corruption in the allocation of jobs? Requesting your kind self to reply to these queries.”
3. In the Appeal the, the Appellant has asked;
 - (a) *Why is there is no equal transparent platform for valuers to bid and win a valuation assignment?*
 - (b) *If it exists, which is the equal opportunity transparent platform available to valuers?*
4. It is pertinent to note 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.” 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.

5. 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. It is thus, clear that the “*right to information*” under section 3 of the RTI Act is circumscribed by RTI Act itself as the right is limited within scope of ‘*information*’ as defined under section 2(f) and is subject to other provisions including those under section 8 of the Act.
6. I find that the Appellant is soliciting answers of the Respondent in the nature of inquiries inviting and soliciting response in the nature of explanation, clarification, opinion, etc. and is beyond the scope of ‘*information*’ under section 2(f) and the ‘*right to information*’ under section 2(j) of the RTI Act. The CPIO is not bound to provide any such advice/guidance or opinion to the Appellant. In this context, I 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.”
7. As stated in the Guide on the RTI Act issued by the DoPT under OM No. 1/32/2013-IR dated 28th November 2013 - “*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.*”
8. These requests, of the Appellant, are certainly inquiries soliciting a response for an answer rather than any ‘*information*’ within the scope and ambit of section 2(f) of RTI Act. This Act does not create obligation on the public authority to answer queries eliciting answers to questions. In this regard, it is relevant to refer to the Order dated April 21, 2006, of the Hon’ble CIC in the matter Dr. D.V. Rao Vs. Shri Yashwant Singh & Anr., wherein it was observed that: “*the RTI Act does not cast on the public authority any obligation to answer queries in which a petitioner attempts to elicit answers to his questions with prefixes, such as, ‘why’, ‘what’, ‘when’ and ‘whether’.* The petitioner’s right extends only to seeking information as defined in section 2 (f) either by pinpointing the file, document, paper or record, etc., or by mentioning the type of information as may be available with the specified public authority.”

9. In view of the above, I find that there is no need to interfere with the decision of the Respondent. The Appeal is accordingly dismissed.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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