

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

2nd Floor, Jeevan Vihar Building
Sansad Marg, New Delhi- 110 001

Dated: 31st March, 2021

RTI Appeal Registration No. ISBBI/A/E/21/00007

IN THE MATTER OF

Mr. Rajmal Ratanlal Kakaria

... 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 present Appeal No. ISBBI/A/E/21/00007 dated 2nd March, 2021, has been filed by Mr. Rajmal Ratanlal Kakaria (Appellant), before the First Appellate Authority (FAA), Insolvency and Bankruptcy Board of India (IBBI) under the Right to Information Act, 2005 (RTI Act), against the disposal of the RTI Application No. ISBBI/R/E/21/00045 by the Central Public Information Officer - CPIO (Respondent) on 30th January, 2021.
2. The information sought by the Appellant under section 6 of the RTI Act and the response given by the Respondent are as under:

S. No	Information Sought	Reply by CPIO
1.	<i>Stock exchanges have done mass-delisting of companies under CIRP / liquidation without approval of NCLT. As IBBI has declared that it is not empowered to reverse illegal delisting, please inform us about suitable regulator who can uphold provisions of IBC.</i>	<i>The information sought is not available with IBBI. The information sought is in the form of seeking opinion, inquisition and inquiry. Hence, the same is not covered under the definition of information under section 2(f) of the RTI Act</i>
2.	<i>Given the huge loss to public investors due to illegal delisting, please inform if IBBI is allowed to take up the matter with MCA to ensure compliance under IBC.</i>	<i>The information sought is not available with IBBI. The information sought is in the form of seeking opinion, inquisition and inquiry. Hence, the same is not covered under the definition of information under section 2(f) of the RTI Act</i>

3.	<i>Please also inform about steps taken by IBBI to spread awareness about IBC among stock exchanges to stop illegal delisting of companies under CIRP / liquidation.</i>	<p><i>IBBI has not conducted any distinct/particular awareness programme specifically for the issue of delisting of companies under CIRP / liquidation, for stock exchanges.</i></p> <p><i>Further, in general various awareness initiatives on IBC, 2016 have been undertaken by IBBI covering wide range of stakeholders like National Online Quiz on IBC, Webinars, participation by senior officers in programmes, etc. among others. Many of these programmes were open to wide range of stakeholders (including employees of stock exchanges).</i></p>
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3. In this appeal, the appellant has stated that instead of providing basic details like the regulator who can ensure compliance with IBC, the CPIO has informed that he is seeking clarification. Accordingly, he has requested the FAA to provide the said information.
4. Comments of the respondent were called for. The respondent has submitted that:

“The information sought is not available with IBBI. The information sought is in the form of seeking opinion, inquisition and inquiry. Hence, the same is not covered under the definition of information under section 2(f) of the RTI Act.”
5. On perusal of the application submitted by RTI Appellant for seeking information under RTI Act and the appeal made thereafter, it is observed that Appellant is aggrieved by the actions of delisting by stock exchanges of companies undergoing CIRP/liquidation proceedings and wants reversal of such actions.
6. In this connection, this FAA is of the view that CPIO is not expected to draw inferences or interpret information or solve the problems raised by the applicants or furnish opinions. In this regard, it is important to refer the definition of ‘information’ in the RTI Act. Section 2(f) of the RTI Act defines ‘information’ as follows:

‘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.
7. It is stated in the Guide on Right to Information Act, 2005 issued vide OM No. 1/32/2013-IR dated 28th November, 2013 of DoPT, 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.”

8. Further, 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.”

9. Accordingly, this FAA agrees with the submissions of the CPIO, that the requested information is in the nature of seeking opinion and inferences and accordingly, does not fall within the ambit of ‘information’ under the RTI Act.

10. In view of foregoing, the appeal is disposed of.

(Sd/-)

(Dr. Anuradha Guru)

Executive Director and First Appellate Authority

Copy to:

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