

**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: 24th June, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00020

IN THE MATTER OF

Satish Sharma

... 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 9th June 2022, challenging the communication of the Respondent dated 9th June 2022 with regard to his RTI Application No. ISBBI/R/E/22/00121 dated 12th May 2022 filed under the Right to Information Act, 2005 (RTI Act).
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. In the RTI Application, the Appellant has stated that *“what investigation conducted by IBBI & their consequence against Mr. Sanjay Kumar Singh (IBBI/IPA-002/IP-N00188/2017-18/10505) in pursuant of order dated 29.09.2021 of Honble NCLAT, Priciple Bench, New Delhi in the matter of Bimlesh Bhardwaj & Ors VS ValueInfra Tech India Pvt Ltd & ANR in appeal no Company Appeal(AT) (Ins) No. 112 of 2021.* The Respondent in his reply stated that disciplinary proceeding has been initiated against Mr. Sanjay Kumar Singh. In this Appeal, the Appellant has stated that the Respondent has given incomplete information as the stage of enquiry and consequence is not stated in the reply.
3. 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. It is pertinent to mention that scope of information disclosure under the RTI Act is circumscribed by RTI Act itself. While the “right to information” flows from section 3 of the RTI Act, it is subject to other provisions of the Act. 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(1)(a) to 8(1)(j) 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.

4. In this case, the Appellant has raised inquiries in nature of clarification which is not covered in the scope of 'information' as held by 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.*, *inter alia*, 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..."* Further, Hon'ble CIC in *M Jameel Basha 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 also 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."*
5. Further, the Appellant has asked questions as to what investigation has been initiated by IBBI and the consequence thereof. Such question, in my view, are in nature of inquiries soliciting opinion or advice, and beyond the scope of right to information under the RTI Act. The Respondent is not bound to respond to such inquiries under the RTI Act. In this regard, it is also 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."*
6. Apart from the above, the inquiry of the Appellant is in connection with enforcement action which is pending in a Disciplinary Proceedings. Such inquiry, in my view also impedes pending enforcement action of IBBI and even if construed as 'information' request, any disclosure by answering such inquiry would be covered under specific exemption provided under section 8(1)(h) of the RTI Act.
7. In view of the above, I find no reason to interfere with the decision of the Respondent. The appeal is, accordingly, disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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2. CPIO, The Insolvency and Bankruptcy Board of India, 2nd Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.