

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

2<sup>nd</sup> Floor, Jeevan Vihar Building  
Sansad Marg, New Delhi- 110 001

**Dated: 15<sup>th</sup> July, 2021**

**RTI Appeal Registration No. ISBBI/A/E/21/00015**

**IN THE MATTER OF**

**Mr. Tushar Mahendrabhai Patel**

... 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/21/00015 dated 24<sup>th</sup> June, 2021, has been filed by Mr. Tushar Mahendrabhai Patel (Appellant), before the First Appellant 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/21/00117 by the Central Public Information Officer - CPIO (Respondent) on 23<sup>rd</sup> June, 2021.
2. I have carefully considered the application, the response and the appeal and find that the matter can be decided based on the material available on record. In this appeal, the Appellant has broadly stated the following:

*"I request you please give me clarification of contractual obligation in the list of excluded debt under section 79 of IBC code 2016. Because it is not listed in the list of non-dischargeable debt under section 44 of the provincial insolvency act 1920. Under the non-dischargeable debt list, IBC 2016 covers damage to pay the breach of a contractual obligation which is not listed in the provincial insolvency act 1920 as non-dischargeable debt. Therefore it creates confusion. What types of damage to pay contractual obligation are non-dischargeable?"*

*List of non-dischargeable debt under provincial insolvency act 1920.*

*(a) any debt due to the Government*

*(b) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party*

*(c) any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party or*

*(d) any liability under an order for maintenance made under section 488 of the Code of Criminal Procedure, 1898 (5 of 1898).*

*List of non-dischargeable debt under IBC 2016.*

*(a) liability to pay fine imposed by a court or tribunal*

*(b) liability to pay damages for negligence, nuisance, or breach of a statutory, contractual or other legal obligation*

*(c) liability to pay maintenance to any person under any law for the time being in force*

*(d) liability in relation to a student loan*

*(e) any other debt as may be prescribed*

*Please help us to solve this confusion.”*

3. It is noted that with regard to this query, CPIO, *vide* communication dated 23<sup>rd</sup> June, 2021 informed the appellant that – *“The information sought is the nature of seeking clarification/interpretation of a provision of law and does not fall under the definition of “information” under section 2(f) of the RTI Act, 2005.”*

4. In this connection, 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.”*

5. It is stated in the Guide on the RTI Act issued by the DoPT under OM No. 1/32/2013-IR dated 28th November, 2013 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.”*

6. Further, the 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), observed the following:

*“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. Similarly, redressal of grievance, non-compliance of rules, contesting the actions of respondent public authority and suggesting correction in government policies are outside the purview of the RTI Act.”*

7. 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.”*

8. The above being the position, the interpretation/providing clarifications on the provisions of the Insolvency and Bankruptcy Code, 2016 is not within CPIO’s scope under the RTI Act.
9. In view of the above, no interference with response of the CPIO is called for. All prayers in appeal are disposed of accordingly.

Sd/

**(Santosh Kumar Shukla)**  
First Appellate Authority

**Copy to:**

1. Appellant, Mr. Tushar Mahendrabhai Patel.
2. CPIO, The Insolvency and Bankruptcy Board of India, 2<sup>nd</sup> Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.