

**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: 20th July, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00026

IN THE MATTER OF

CA Rajat Kumar Mehra

... 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 the present Appeal dated 21st June 2022, challenging the communication of the Respondent dated 17th June 2022 with regard to his RTI Application No. ISBBI/R/E/22/00132 dated 27th May 2022 filed under the Right to Information Act, 2005 (RTI Act). In the RTI Application, the Appellant has *inter-alia* requested for the following –

“(1) *Kindly provide all questions and their answers asked from me today under Registration No. NISM-202100120643 and Enrollment no. 2200151026...*

2. (a) *Kindly provide me the answer as per your question/answer data bank held with you.*

(b) *Copy of Records of decisions of putting this question in data/question/answer bank of IBBI giving procedure*

(c) *Copy of Instructions/Guidelines to avoid vague questions and answer*

3. (a) *How many students have applied for information under the RTI Act*

(b) *How many of them have been passed by you.*

(c) *How many of them have been provided information....”*

2. Aggrieved by the response of the Respondent, the Appellant has broadly submitted the following: –

- a. The Respondent has not responded to the query (1).
- b. With regard to query (2)(a), (2)(b) and (2)(c), the Appellant has stated that (i) the Respondent has not applied its mind before applying section 8(1)(d), (ii) no law bars telling answer to a question, (iii) concealing questions is violative of Indian and International Copyright laws, (iv) IBBI's examination is mandating cramming.
- c. With regard to query (3)(a), (3)(b) and (3)(c), the Appellant has stated that (i) the Respondent did not provide detailed reasons for denial the information, (ii) no relevant section was quoted for denying information.
- d. The information given by Respondent is incorrect, *mala fide*, vague, misleading and bad in law.

3. The Appellant also requested for opportunity of personal hearing. Considering several contentions raised in the Appeal in respect of response on merits and also on Respondent, the Appellant was given opportunity of personal hearing which he availed on 19th July 2022 through virtual mode. During hearing, the Appellant made submissions on the lines of written submissions made in Appeal and pithily argued that he is entitled to know the correct answers to questions asked in examination conducted by IBBI. He was also given liberty to make additional written submissions, if he so chooses, which he declined.
4. I have carefully examined the application, the response of the Respondent and the Appeal. Before examining the request, I deem it appropriate to deal with scope of 'information' and right to receive the information under the RTI Act. It is noted 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."*
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. It is also 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. 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."
6. In the instant case, the Appellant has requested for (a) all questions and their answers asked from him, (b) decision behind putting a certain question in the bank, (c) copy of instructions/ guidelines to avoid vague questions and answers. Such information is exempted under section 8(1)(d). I have already provided detailed reasons to the Appellant vide my Order dated 8th June 2022 in RTI Appeal Registration No. ISBBI/A/E/22/00018 as to how disclosure of the questions and answers will not only be against the confidentiality and integrity of the entire Examination process but also affect the competitive position of the other aspirants as the aspirants having questions and answers in advance will have an undue advantage as the questions are likely to be repeated in the future Examinations. If the Appellant is aggrieved by the same, the Appellant can file an appeal as per provisions of the RTI Act. In this regard, it is useful to refer to the following observations of the Hon'ble Supreme Court of India in

the matter of *Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.* (Judgment dated August 9, 2011):

“Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising ‘information furnishing’, at the cost of their normal and regular duties.”

7. The CIC also in *Prem Prakash Kumar Vs. NFL, Panipat*, (Decision no. 246/IC/(A)/2006, F.No. CIC/MA/A/2006/00374 & 375 dated 28 August 2006) observed that “....*the nature of queries and the information sought are such that the information seeker would never be satisfied because the promotion of self interest, rather than public interest, was dominant, as the appellant had sought redressal of grievances.*”
8. I noted that in point 3(a), 3(b) and 3(c) of his request, the Appellant has requested for (i) total number of students who have applied for information under RTI Act, (ii) how many of such students have been passed and (iii) how many are provided information. In my view, compilation and collation of such information from the CPIO will result in disproportionate diversion of resources of Insolvency and Bankruptcy Board of India. In this regard, it is pertinent to refer to section 7(9) of the RTI Act, which provides that - *An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.*”
9. I do not find any larger public interest for a direction to collate and compile the details of information and to provide the same to the appellant in the manner as he desires. Despite this, if the Respondent resorts to provide such information after collating and compiling the same in a single point, it would have to devote very large amount of resources and time. Such exercise would defeat ‘the practical regime of right to information’ as envisaged in the preamble of the RTI Act and would disproportionately divert the resources of IBBI. I note that the Hon'ble CIC in the matter of *Shri Praveen Agarwal Vs. SEBI* (Order dated October 1, 2008) held that it is not open to appellant to saddle a public authority with elaborate queries, response to which could not be given without the public authority straining itself to wade through large volumes of information and data. Section 7(9) clearly forbids this form of disclosure. Hence, in my view, the response of the Respondent is in line with provisions of section 7(9) of the RTI Act which permits the Respondent to provide the information in a manner other than that insisted by the appellant in these situations.

10. In view of the above, the Respondent has provided the information that could be shared and he had no obligation to disclose the information which is exempted from disclosure in terms of the RTI Act. The Appellant has not established any larger public interest for such disclosure of information. In fact, the disclosure of such information would not serve any public purpose rather it would harm the competitive confidence of aspirants in upcoming examinations and would in turn compromise with the public interest.
11. In view of the above, I find no reason to interfere with the decision of the Respondent. The Appeal is disposed of accordingly.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

1. Appellant, CA Rajat Kumar Mehra.
2. CPIO, The Insolvency and Bankruptcy Board of India, 2nd Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.