

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

7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market,  
Connaught Circus, New Delhi -110001

**Dated: 23<sup>rd</sup> August, 2024**

**IN THE MATTER OF**

**Arun N**

... Appellant

Vs.

**Central Public Information Officer**

The Insolvency and Bankruptcy Board of India

7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market,

Connaught Circus, New Delhi -110001.

... Respondent

**ORDER**

1. The Appellant has filed present Appeal dated 31<sup>st</sup> July 2024, challenging the communication of the Respondent dated 26<sup>th</sup> July 2024 with regard to his RTI Application No. ISBBI/R/E/24/00129 dated 7<sup>th</sup> July 2024 filed under the Right to Information Act, 2005 (RTI Act).

2. The request of the Appellant and the response of the Respondent is as follows -

Information sought	Reply
<i>Please provide a copy of the question papers of the last three LIMITED INSOLVENCY EXAMINATION (held in 2023 &amp; 2024)</i>	<i>Disclosing the questions and/or their answers violates the integrity of the live question bank, which is in use. It will breach the confidentiality / secrecy of the live question bank. Hence the information cannot be shared.</i>

3. In the appeal, the Appellant has state as follows –  
*“The ground for rejection is not a valid ground under S.8 (Exemption from disclosure of information) of the RTI act.”*
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 inquisitions. 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.

6. The Appellant has requested for copy of last three question papers for Limited Insolvency Examination (LIE). The Respondent has stated that *"Disclosing the questions and/or their answers violates the integrity of the live question bank, which is in use. It will breach the confidentiality / secrecy of the live question bank. Hence the information cannot be shared."*
7. It is noted that section 8(1)(d) exempts disclosure of information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless it is shown that the larger public interest warrants the disclosure of such information. While applying these provisions, there needs to be proper balancing of private right and public interest taking into account the facts and circumstances and exemptions provided in the RTI Act. It is relevant to note that the questions asked in the LIE are the intellectual property of the IBBI and are held in confidence. The IBBI prepares, updates and maintains a pool of questions which are subject to repetition on a random basis and reuse in the various upcoming Examinations. The Examinations are conducted online and the candidates appearing are not allowed to take printouts, these questions and the corresponding answers are also not provided to any of the candidates who appear for the Examination. Hence, disclosure of the questions 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.
8. In *All India Institute of Medical Sciences v. Vikrant Bhuria*, Hon'ble Delhi High Court vide its order dated 28<sup>th</sup> May 2012 held that in super-specialty subjects with limited number of questions available in the question bank, the disclosure of such questions would encourage the students appearing for the exam to memorize the answers for the exam, thereby adversely affecting the selection of good candidates. In this regard, following observations of Hon'ble High Court are relevant to mention: *"...if question papers are so disclosed, the possibility of the examination not resulting in the selection of the best candidate cannot be ruled out. It is pleaded that knowledge of the question papers of all the previous years with correct answers may lead to selection of a student with good memory rather than an analytical mind. It is also pleaded that setting up of such question papers besides intellectual efforts also entails expenditure. The possibility of appellant, in a given year cutting the said expenditure by picking up questions from its question bank is thus plausible and which factor was considered by the Supreme Court also in the judgment aforesaid... . Once the experts of the appellant have taken a view that the disclosure of the question papers would compromise the selection process, we cannot lightly interfere therewith. Reference in this regard may also be made to the recent dicta in Sanchit Bansal Vs. The Joint Admission Board (JAB): (2012) 1 SCC 157 observing that the process of evaluation and selection of candidates for admission with reference to their performance, the process of achieving the objective of selecting candidates who will be better equipped to suit the specialized courses, are all technical matters in academic field and Courts will not interfere in such processes."* Further, in *All India Institute of Medical Sciences vs. Prakash Singh*, Hon'ble Delhi

High Court *vide* its order dated 6<sup>th</sup> December 2012, while setting aside the decision of CIC to disclose the question papers and answer keys pertaining to the MBBS Entrance Examination, observed that:- "*...there is limited number of questions available to the petitioner, and that if, this information is put out in public domain then, it would be difficult for the petitioners to select candidates on the basis of their analytical ability. In other words, the examinee may perhaps take to the rote route to qualify the examination. .... they would be loathe to interfere in areas where academicians, being experts, have expressed a view, to the effect that, disclosure of question papers and keys would compromise the selection process.*"

9. Hon'ble Central Information Commission in *R. Sesbadri Vs. CPIO, Medical Council of India, Delhi and Ors*, *vide* order dated 28<sup>th</sup> February 2017 observed that: "*The question bank is limited and has been compiled with questions being contributed by the experts in the area. These experts have forfeited their proprietary right over the questions supplied to the NBE. The NBE does not have any commercial interest in guarding this question bank zealously. The NBE have also been applauded for conducting these exams efficiently over the years. .... Given the situation, if public disclosure of questions is allowed, this would lead to dilution of standards by encouraging "cramming" which would be against the objectives of this screening test.*"
10. In view of the above, the Respondent has no obligation to disclose the information asked by the Appellant which is exempted from disclosure in terms of section 8(1)(d) of the RTI Act. The Appellant has not established any larger public interest for its disclosure. 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/  
(Jithesh John)  
First Appellate Authority

**Copy to:**

1. Appellant, Arun N.
2. CPIO, The Insolvency and Bankruptcy Board of India, 7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market, Connaught Circus, New Delhi -110 001.