

**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: 31st October, 2023

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal**

IN THE MATTER OF

K. C. Bhargava

... 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

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1. The Appellant has filed the present Appeal dated 9th October 2023 (received on 18th October 2023), challenging the communication of the Respondent dated 14th September 2023 in his RTI application no. ISBBI/R/P/23/00018. The information sought in the RTI application is as follows -

“Sir

The above-mentioned company floated a residential scheme ‘The City of HOMESTEAD – Passport’ at Sector 25 Sohna Gurgaon in the year 2014. A site plan given to me, and I booked one flat of 650 sq. feet, based upon site plan I paid Rs. 7,21,630/-. Now I came to know that company is bankrupt and IBBI appointed a liquidator.

Homestead company address is as under Plot No 15, 2nd floor, Sector 44 Gurgaon Haryana.

Under RTI act 2005 please provide information.

1. Name of the liquidator and contact No.

2. Status of the case as I could not find online.

3. How I will get back my hard e-earned money, as I am 73 years old I hope that your office will help me to get back my money in my lifetime.”

2. The reply of Respondent was as follows -

“The AA vide its order dated 08.12.2021, passed an order for liquidation of the CD and appointed Mr. Tejas Patel as the liquidator. The copy of the said order may be accessed from the following link:

<http://ibbi.gov.in/uploads/order/6aad34bbb883503b104938bbe44d6263.pdf>.

The details of the liquidator may be obtained from the following link:

<http://ibbi.gov.in/en/insolvency-professional/details?fieldid=MzA3MA%3D%3D>”

3. Aggrieved by the same, the Appellant has filed the present appeal, stating the following –

“...This has reference to my RTI Act 2005 request to provide information regarding appointment of Liquidator For Homestead Infra Pvt. Ltd. in which my Rs. 7 Lacs involve. Sh. Rajesh Sharma CPIO informe me that Advocate Tejas Patel appointed as Liquidator but when I call Mr. Patel in this matter he denied. Now you are requested to give me right information in this matter. Sir, I am Sr. Citizen of 73 Year and I am in great financial Problem. Kindly help me, to get my money back and oblige me...”

4. 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 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. 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. 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.
5. On perusal of the Order of the NCLT dated 08th December 2021, it is noted that the NCLT has appointed Mr. Tejas Patel having IBBI Registration No. IBBI/IPA002/IP-N00600/2018-19/11861 (email: mail@tejaspatel.in) as Liquidator. Accordingly, the Respondent has provided the information as available on records.
6. With regard to the grievance of the Appellant regarding claimed denial of Mr. Tejas Patel of the assignment, it is mentioned that RTI is not the forum to deal with such grievances of the Appellant as claimed in his RTI Application and in this Appeal and the same is outside the scope and ambit of the RTI Act. These grievances are not covered in the scope of ‘information’ under section 2(f) of the RTI Act.
7. The Respondent cannot be compelled to deal with such grievances or to create information by recourse to inquiry outside the scope of the RTI Act. This view finds support from 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.”*
8. Also, 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..."

9. 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."
10. In view of the above, I do not find any reason to interfere with the response of the Respondent. Accordingly, the Appeal is disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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