

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

**Dated: 1<sup>st</sup> March, 2023**

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI  
Appeal Registration No. ISBBI/A/E/23/00009**

**IN THE MATTER OF**

**Ashish Mohan Gupta**

... Appellant

Vs.

**Central Public Information Officer**

The Insolvency and Bankruptcy Board of India

2<sup>nd</sup> Floor, Jeevan Vihar Building

Sansad Marg, New Delhi - 110 001.

... Respondent

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The Appellant has filed the present Appeal dated 31<sup>st</sup> January 2023, challenging the communication of the Respondent dated 11<sup>th</sup> January 2023 with regard to his RTI Application No. ISBBI/R/E/22/00286 dated 23<sup>rd</sup> December 2022 filed under the Right to Information Act, 2005 (RTI Act). He had requested for the following information in the context of the Newsletter of IBBI -

“....

2. Detailed information of Roundtable organised with Real Estate Allottees (homebuyers) as Stakeholders.
3. Detailed information about the "COC Workshops" involving the Real Estate Allottees (homebuyers) along with selection process to be part of these workshops.”

2. The Appellant, in his Appeal has stated that “...the reply on Point nos. 2 and 3 is not satisfactory as the information sought is not provided with any clarity. The shared link does not have any information about Real Estate Allottees. It seems that reply is sent in order to just dispose of the application by sharing a generic information though the information was sought specifically about Real Estate Allottees (Homebuyers).”
3. On the Appeal, the Respondent has submitted that “The quarterly newsletter released by IBBI contains information about the roundtables and workshops conducted by IBBI. Also, any upcoming or concluded workshops is posted on "Whats New" section of the IBBI website. The same was provided to the applicant so that he may take out his relevant information even at later date also.”
4. I have carefully considered the application, the response of the Respondent and the submissions made in the Appeal. 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 the RTI Act. Thus, 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 7(9) of the Act. Accordingly, the Respondent is expected to provide information as available on record.

5. As stated in the Guide on the RTI Act issued by the DoPT under OM No. 1/32/2013-IR dated 28<sup>th</sup> 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. With regard to request no. 2 and 3, it is observed that the Respondent has provided the website link to the Newsletters of IBBI/What’s New Section of IBBI where information on all roundtables and workshops is made available. The Respondent is expected to provide information as available on record and not create any information. The scope of ‘right to information’ under section 2(j) of the RTI Act limits the information to one ‘accessible’ under the RTI Act and ‘which is held by or under the control of any public authority’. In this context, I note that 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), inter alia held: “The RTI Act provides access to all information that is available and existing. ... But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.” It is also observed that the Respondent is not supposed to create any information or give clarifications / confirmations on the information. The queries of the Appellant seeking clarifications from the Respondent on the information provided, are beyond the scope of ‘information’ and ‘right to information’ under the RTI Act.

7. Further, I find that the Respondent, under the RTI Act, is required to furnish information/documents as available on record and is not supposed to collect, collate or segregate the information in the manner in which it was sought by the Appellant. The Hon’ble Supreme Court in decision dated 09<sup>th</sup> August, 2011 in the matter of *CBSE & Anr. Vs. Aditya Bandopadhyay & Ors*. (C.A. No. 6454 of 2011) held:

*“35..... But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant..... 67..... 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 prioritizing information furnishing, at the cost of their normal and regular duties”*

8. The matter has been further clarified by the Division Bench of Hon’ble Delhi High Court in its decision in *The Registrar of Supreme Court of India vs Commodore Lokesh K Batra & Ors*. dated 07<sup>th</sup> January 2016 (LPA 24/2015 & CM No. 965/2015) wherein it was held that:

*“15. On a combined reading of Section 4(1)(a) and Section 2(i), it appears to us that the requirement is only to maintain the records in a manner which facilitates the right to information under the Act. As already noticed above, “right to information” under Section 2(j) means only the right to information which is held by any public authority. We do not find any other provision under the Act under which a direction can be issued to the public authority to collate the information in the manner in which it is sought by the applicant.”*

9. Accordingly, I note that the requested information with respect to request number 2 and 3 have been provided by the Respondent to the Appellant and therefore, I do not find any reason to interfere with the decision of the Respondent.
10. The appeal is disposed of accordingly.

**Sd/**  
**(Amit Pradhan)**  
First Appellate Authority

**Copy to:**

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