

**WHOLE TIME MEMBER AND FIRST APPELLATE AUTHORITY
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

7TH FLOOR, MAYUR BHAWAN, NEW DELHI

DATED THE 1ST OF AUGUST, 2018

Appeal No. ISBBI/A/2018/00011 (F. No. IBBI/AL/RTI/102/ Rajiv Chopra)
Dated: June 16, 2018

Arising out of Order dated June 13, 2018 under RTI Request No.
ISBBI/R/2018/00015

IN THE MATTER OF

Shri Rajiv Chopra Appellant

Versus

CPIO, Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan
New Delhi Respondent

ORDER

1. The present Appeal No. ISBBI/A/2018/00011 dated June 16, 2018 received in the office of the First Appellate Authority (**FAA**), Insolvency and Bankruptcy Board of India under the Right to Information Act, 2005 has been preferred by Shri Rajiv Chopra against the order of the CPIO, Mr. Umesh Kumar Sharma, Insolvency and Bankruptcy Board of India with respect to his RTI Request No. ISBBI/R/2018/00015.
2. On a detailed perusal of the RTI Application of Shri Rajiv Chopra, it is observed that the appellant sought the following information from the Insolvency and Bankruptcy Board of India: -
 - (i) “Certified copy of the mail received (along with all attachments, if any) from Mr Arun Gupta (IP) who has been appointed as Liquidator by IBBI in case of M/s LML Limited (in response to mail from IBBI).
 - (ii) Certified copy of all pages of note sheets on which the notings & decision of allotment of assignment (as Liquidator) in favour of Mr Arun Gupta, has been recorded in writing (in response to mail from IBBI).

- (iii) How many IPs applied against the EOI sent by IBBI.
 - (iv) What was the total score of each one of the individual applicants (IP) who applied for this assignment in response to the EOI of IBBI. Pls provide it in tabular form.
 - (v) What was the criteria adopted by IBBI while allotting that assignment?
 - (vi) Was that criteria in line with the IBBI's own guidelines which it sent to IPs along with lists that it forwarded to different NCLTs in Jan2018.”
3. The appellant in the present appeal has averred that the complete information has not been made available to him till date. He raised the queries, particularly, as to the point (i) and (vi) of the above-mentioned para 2 and stated that: -
- (i) *Ld. CPIO has stated that its third-party information which is not correct as any information sent by any IP becomes part of IBBI's own record & hence cannot be denied on the ground of 3rd party information. Rather, on the contrary, its in the interest of IBBI to provide such information without any hesitation to ensure transparency & accountability in the working of IBBI which is a public authority. This information is all the more relevant in my case to figure out as to whether or not, the other IP provided correct information to IBBI to get the liquidator related assignment & also to figure out as to whether or not the IBBI itself also followed its own laid down guidelines while recommending that IP's name to NCLT, Allahabad.*
 - (ii) *Ld. CPIO has stated that IBBI furnishes the list of empanelled IPs to NCLTs & final decision of appointment rests with NCLT which was not true/correct in this particular case as in this case NCLT had specifically asked/directed IBBI to recommend name of IP as liquidator which IBBI itself had recommended after due diligence but while doing so, IBBI has violated its own guidelines, as discussed in details in the attachment to my RTI application”.*
4. The present RTI appeal has been examined and I have perused the response provided by the respondent in respect of the queries raised in the RTI application. In this context, I find that information in respect of the specific query in para 2 in point (i) above has not been provided.
5. I also note that the appellant's request for information through the query (vi) amounts to obtaining the opinion and advice of the Insolvency and Bankruptcy Board of India which does not fall under section 2(f) of the Right to Information Act, 2005. The Hon'ble Supreme Court of India in the matter of Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors. (Civil Appeal No.

6454 of 2011), has, inter alia, held: "A public authority is "...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. Further, the Hon'ble CIC in the matter of Sh. Alok Shukla vs. CPIO, SEBI (File No. CIC/SM/A/2012/001838, Order dated May 23, 2013), held: "While dealing with RTI, we should not forget that information means only an existing material record. The CPIO can provide the copy of the available records; he cannot create new records in order to address specific queries of the Appellant."

6. Regarding queries (i) of para 2, I direct the respondent to provide the information sought by the appellant within 20 working days from the date of receipt of this order.

Accordingly, the appeal is disposed of.

Sd/-

(Mukulita Vijayawargiya)

Whole Time Member and First Appellate Authority

Copy to

1. Shri Rajiv Chopra
2. CPIO, Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan
New Delhi