

**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: 18<sup>th</sup> September, 2024**

**RTI APPEAL REGISTRATION NO. ISBBI/A/E/24/00027**

**IN THE MATTER OF**

**Anubhav Choudhary**

... 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 20<sup>th</sup> August 2024, challenging the communication of the Respondent dated 16<sup>th</sup> August 2024 with regard to his RTI Application No. ISBBI/R/E/24/00152 dated 25<sup>th</sup> July 2024 filed under the Right to Information Act, 2005 (RTI Act).
2. The request of the Appellant and the reply of the Respondent was as follows –

<b>Appellant</b>	<b>Respondent</b>
<p>I am writing to request <b>information regarding the amendments or steps being taken by IBBI to secure funds for operational creditors in the corporate insolvency process</b> As you are aware operational creditors face significant financial difficulties due to limited options and power during the insolvency process I request the following information</p> <p>1 What new amendments or steps is IBBI considering or has taken to ensure fair treatment and secured funds for operational creditors during the corporate insolvency process</p> <p>2 Are there any proposed changes to the Insolvency and Bankruptcy Code IBC to address operational creditors concerns</p> <p>3 What measures is IBBI taking to ensure operational creditors representation and voice during the insolvency process</p> <p>4 Are there plans to establish a separate fund or mechanism to support operational creditors facing financial difficulties due to the insolvency process</p>	<p>The details sought are in the nature of seeking clarification / opinion of the Board which is not covered under the ambit of definition of ‘information’ under section 2(f) of the RTI Act, 2005.</p>

5 What is the timeline for updating the proposed measures in the IBC law	
6 Please share any new inputs or developments regarding operational creditor rights	
7 What is the role of the Interim Resolution Professional IRP in regard to operational creditors being neglected by most Insolvency Professionals IP	
8 What are the reasons for the delay in amendments for operational creditors and what steps are being taken to address this delay	

3. In the appeal, the Appellant has stated as follows –  
*“... I am writing in response to your  
I am disappointed to note that the information has been denied. I would like to clarify that I am seeking factual information and not opinions or interpretations. I request you to reconsider your decision and provide the information as per the RTI Act.  
If the information is still denied, please provide the valid reasons for the denial and the relevant sections of the RTI Act under which the information is being denied. I would appreciate a prompt response in this matter...”*
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. 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 8. It is thus, 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.
6. I find that the Appellant has requested for answers on queries and is soliciting response in the nature of explanation, clarification, opinion, etc. and is beyond the scope of ‘information’ under section 2(f) and the ‘right to information’ under section 2(j) of the RTI Act. The CPIO is not bound to provide any such advice/guidance or opinion to the Appellant. The discussion on amendments to the IBC are already in public domain wherein the Ministry of Corporate Affairs had invited comments from the public on changes being considered to the Insolvency and Bankruptcy Code, 2016 (<https://ibbi.gov.in/uploads/whatsnew/7f55e29ae9c0023184a3895f849cd2ef.pdf>). In this

context, I note that 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.* had held that: "...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. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."*

7. Also, 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."*
8. These requests, of the Appellant, are certainly inquiries soliciting a response for an answer rather than any 'information' within the scope and ambit of section 2(f) of RTI Act. The RTI Act does not create obligation on the public authority to answer queries eliciting answers to questions. In this regard, it is relevant to refer to the Order dated April 21, 2006, of the Hon'ble CIC in the matter *Dr. D.V. Rao Vs. Shri Yashwant Singh & Anr.*, wherein it was observed that: *"the RTI Act does not cast on the public authority any obligation to answer queries in which a petitioner attempts to elicit answers to his questions with prefixes, such as, 'why', 'what', 'when' and 'whether'. The petitioner's right extends only to seeking information as defined in section 2 (f) either by pinpointing the file, document, paper or record, etc., or by mentioning the type of information as may be available with the specified public authority."*
9. In view of the above, I find that there is no need to interfere with the decision of the Respondent. The Appeal is accordingly dismissed.

Sd/

(Jithesh John)

First Appellate Authority

**Copy to:**

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