

**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: 23rd May, 2023

RTI Appeal Registration No. ISBBI/A/E/23/00015

IN THE MATTER OF

Pankaj Agarwal

... 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

ORDER

1. The Appellant has filed present Appeal dated 27th April 2023, challenging the communication of Respondent dated 13th April 2023 against the information requested by the Appellant *vide* his RTI Application No. ISBBI/R/E/23/00037 dated 14th March 2023 filed under the Right to Information Act, 2005 (RTI Act). The Appellant had requested for the following in the RTI Application –

Sl. No.	Information requested	Reply by CPIO
1	Whether a valuer who is not registered with IBBI as registered Valuer (on date of such inspection) can do an inspection of site/assets of Corporate Debtor and give a valuation report to Resolution Professional. If yes, please share the relevant regulation, circular or provision for same and If No, then what is the legal sanctity of this valuation report?	<i>The seeking of opinion or advice is not covered under the definition of "information" as per section 2(f) of the RTI Act, 2005.</i>
2	If same valuer after the date of inspection of site/assets of Corporate Debtor is registered with IBBI as registered Valuer and give a valuation report to Resolution Professional. is this report to be treated as legal and binding or illegal and non binding. If yes, please share the relevant regulation, circular or provision for same and If No, then what is the legal sanctity of this valuation report?	<i>The seeking of opinion or advice is not covered under the definition of "information" as per section 2(f) of the RTI Act, 2005.</i>
3	What is the procedure, parameters, and guidelines which a valuer must be compulsory followed while giving a valuation report for any immovable assets Corporate Debtor? Please share the sets of	<i>The Companies (Registered Valuers and Valuation) Rules, 2017 and the guidelines framed thereunder is available on the website of IBBI under relevant headings at https://ibbi.gov.in/en/legal-framework.</i>

	rules, framework, guidelines which are to be compulsory followed while giving a valuation report?	
4	Can a Valuer appointed by COC sub delegate the task of valuation to another valuer, who is not appointed by COC? What is the legal sanctity of such valuation report which is given such appointee/delegate valuer? Please provide the rules permitting the sub delegation of job.	<i>The seeking of opinion or advice is not covered under the definition of "information as per section 2(f) of the RTI Act, 2005.</i>
5	What is the difference between Real Value, Fair Market Value and Liquidation value? Please share the sets of rules, framework, guidelines governing the determination of these 3 different values.	<i>The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 which under regulation 2 provides for definition of "fair value" and "liquidation value", can be accessed at https://ibbi.gov.in/en/lega-framework/updated</i>
6	Based on assessment of which and what value Real Value, Fair Market Value and Liquidation value Resolution Professional can file Application under Section 42,25,49 and 66 of IBC, 2016 before Adjudicating Authority Please share the relevant regulation, circular or provision for same?	<i>The seeking of opinion or advice is not covered under the definition of "information file as per section 2(f) of the RTI Act, 2005.</i>
7	Based on assessment of which value Real Value. Fair Market Value and Liquidation value Adjudicating Authority must adjudicate and decide Applications under Section 42.25,49 and 66 of IBC 2016 filed by Resolution Professional Please share the relevant regulation, circular or provision for same?	<i>The seeking of opinion or advice is not covered under the definition of "information" as per section 2(f) of the RTI Act, 2005</i>

2. In the Appeal, the Appellant has submitted that that the CPIO has “*denied specific answers of question/information sought.*”
3. 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.*”
4. 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.

5. I find that the Appellant is soliciting opinion on rules/regulations on valuations under the Insolvency and Bankruptcy Code, 2016. Such requests of the Appellant are inquiries inviting and soliciting response in the nature of explanation, clarification, opinion, interpretation 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. 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."
6. As stated in 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.*"
7. 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. This 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.*"
8. 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/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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