

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

2<sup>nd</sup> Floor, Jeevan Vihar Building  
Sansad Marg, New Delhi- 110 001

**Dated: 31<sup>st</sup> May, 2022**

**RTI Appeal Registration No. ISBBI/A/E/22/00017**

**IN THE MATTER OF**

**Amit Kumar**

... 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

**ORDER**

1. The Appellant has filed the present Appeal dated 7<sup>th</sup> May 2022, challenging the communication of the Respondent dated 28<sup>th</sup> April 2022 with regard to his RTI Application No. ISBBI/R/E/22/00010 dated 18<sup>th</sup> April 2022 filed under the Right to Information Act, 2005 (RTI Act). In the RTI Application, the Appellant has requested for the following –

<p><b>संदर्भ : निम्न सूचना एवं अभिलेखों की प्रमाणित प्रतियां दे :-</b></p> <p><b>1. क्या फर्म के NCLT में जाने के उपरान्त फर्म अनुबन्ध में बनी रहेगी ?</b></p> <p><b>2. क्या फर्म के NCLT में जाने के उपरान्त अनुबन्धित फर्म द्वारा दिसम्बर 2019 में पत्र लिखकर अप्रैल, 2018 से Sub-contractor का अप्रूवल लिया जा सकता है NCLT फर्म का मुख्य अभियन्ता के अनुमोदन से कार्य हस्तान्तरित किया जा सकता है, साथ ही अनुबन्धित फर्म के अभिलेखों का प्रयोग कर सीधे भुगतान Sub-contractor के खाते में किया जा सकता है ?</b></p> <p><b>3. Insolvency and Bankruptcy code 2016 Act. के अन्तर्गत Liquidator द्वारा विभाग को फर्म की Insolvent होने की सूचना देने के उपरान्त भी विभाग द्वारा फर्म से अनुबन्ध जारी रहेगा ?</b></p> <p><b>4. क्या सम्परीक्षा दल द्वारा प्रस्तुत की गयी रिपोर्ट पर यह टिप्पणी स्वीकार्य है कि यह किसी न्यायिक/अन्य किसी स्तर की प्रक्रिया हेतु उत्तरदायी नहीं होंगे ?</b></p>
---

2. The Respondent replied stating that the requested 'information' is in the nature of seeking explanations and clarifications, and same is not covered within the scope of section 2(f) of the RTI Act.
3. Aggrieved by the same, the Appellant has submitted the following –  
“In UP Jal Nigam(Urban) Meerut, A contract Bond is going on ofoperation and Maintenance of water treatment plant of capacity 100MLD since April 2018. It will completed on 31 March 2023. This work

*was awarded to M/s Pratibha Industries Ltd in April 2018. In february 2019 ,It had been Insolvent by NCLT. The same intimation was also given to Project Manager Up jal Nigam Nagar, Meerut by Liquidator. The pratibha's AGM write a letter on 31.12.2019 to the Superintending Engineer Up Jal Nigam, Meerut for approval the sublet the same work to his sub contractor TL Infra which was formed on March 2018 as per obtained GST no. The O&M work of plant is alloted to TL infra from April 2018 by taking permission from chief engineer UP Jal Nigam in back date 04.09.2018. In January 2020 ,An internal audit team of U.P Jal nigam comes to check the facts of Insolvent firm and in May 2021 The report is given to department that as per contract Bond's clause the work could be Sublet and permission was also obtained for the samework. So there is no irregularity found in the contract bond. I told the department that it is against the IBC Act-2016 but nobody helped me. In E Auction sale of 21.01.2022 all assets of Pratibha company have been sold out but this bond is going on. so pls help me so that i can prove i was right ."*

4. 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. Section 2(j) of the RTI Act defines the "right to information" in terms of information accessible under the Act which is held by or is under the control of a public authority. The inclusive list provides for the right to - (i) inspection of work, documents, records; (ii) taking notes, extracts or certified copies of documents or records; (iii) taking certified samples of material; (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.
5. 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."
6. The aforesaid definitions contemplate providing of material in the forms of records, documents, opinions, advices, etc. It does not include giving opinions on issues raised or providing clarifications or advice to inquiries. 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. The queries of Appellant, in my view, are in nature of inquiries soliciting guidance, advice and opinion and beyond the scope of right to information under the RTI Act. The Respondent is not bound to respond to such inquiries under the RTI Act. In this regard, it is also 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. It is also relevant to mention that the 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*, held 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. In view of the above, I find no reason to interfere with the decision of the Respondent.
10. The appeal is accordingly, disposed of.

**Sd/**  
**(Santosh Kumar Shukla)**  
First Appellate Authority

**Copy to:**

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