

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

7<sup>TH</sup> FLOOR, MAYUR BHAWAN, NEW DELHI

DATED THE 7<sup>th</sup> OF FEBRUARY, 2018

Appeal No. ISBBI/A/2018/60001 (F. No. IBBI/AI Div./RTI Appeal/2017-18/1)

Dated: January 04, 2018

Arising out of Order dated January 01, 2018 under RTI Request No.  
ISIBBI/R/2017/50037

IN THE MATTER OF

Mr. Julius Sevugan

M/s.CJP Industries W166 & 167,

SIDCO Industrial Estate

Valavanthankottai, Trichy

Tamilnadu - 620015

.....

Appellant

Versus

CPIO, Insolvency and Bankruptcy Board of India

7<sup>th</sup> Floor, Mayur Bhawan

New Delhi

.....

Respondent

**ORDER**

1. The present Appeal No. ISBBI/A/2018/60001 dated January 04, 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 Mr. Julius Sevugan against the order of the CPIO, Insolvency and Bankruptcy Board of India with respect to his RTI Request No. ISIBBI/R/2017/50037.
2. In this RTI appeal, the appellant seeks the following information from the Insolvency and Bankruptcy Board of India:
  - “(1) “Whether a person named S. Venugopalan has been authorized or permitted by the Interim Resolution Professional, to file the above said Writ Petition (W.P.(MD)No.18724 of 2017) on behalf of M/s. Tecpro Systems Ltd, against M/s. CJP Industries.

- (2) Since M/s. Tecpro Systems Ltd is under insolvency proceedings, is it Legal, for the Directors of the Company to have in their custody, especially in their houses, the Movable Properties including luxury Cars worth Several Crores standing in the name of M/s. Tecpro Systems Ltd.
- (3) On providing the necessary documentary proofs, whether the IRP has any right to take any legal action, for accounting the properties purchased from the amounts illegally routed from M/s. Tecpro Systems Ltd, in the names of the Directors of M/s. Tecpro Systems Ltd and their family members, for settling dues of the creditors.”
3. The appellant in the present appeal has averred that the reply given by the public authority for (1) in RTI request is untenable due to the reason that if the particular information is not available with the authority, the authority should transfer the application to the concerned authority, for providing information, as per Section 6 (3) of the RTI Act 2005. He also further averred that the reply given for (2) & (3) in the RTI request, stating the reason the information sought for are not covered under section 2(f) of the RTI Act is untenable.
  4. The CPIO, Insolvency and Bankruptcy Board of India had disposed of the RTI Application on January 01, 2018 stating that with respect to RTI query (1), the information sought is not available with the Insolvency and Bankruptcy Board of India, and further stated that for query (2) & (3), the information sought is not covered under section 2(f) of the Right to Information Act, 2005.
  5. The present RTI appeal has been examined and also the reply given by the CPIO with respect to RTI application in the light of the judgments of the Hon’ble Supreme Court and orders of Hon’ble CIC.
  6. The Hon’ble Supreme Court of India in *Thalappalam Ser. Coop. Bank Ltd. & Ors, v. State of Kerala & Ors. (Civil Appeal No. 9017 of 2013)*, while interpreting the term “information” enshrined in Section 2(f) of the RTI Act, 2005 has observed that citizens have a right to get information, but can have access only to the information “held” and under the “control of public authorities”, with limitations. If the information is not statutorily accessible by a public authority, as defined in Section 2(h) of the Act, evidently, that information will not be under the “control of the public authority”.
  7. Further, it is also to be noted that 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.*

8. The Hon’ble CIC in the matter of *Sh. Alok Shukla vs. CPIO, SEBI* (File No. CIC/SM/A/2012/001838), 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.*
9. In view of the above, it is observed that in respect of RTI query (1), the Board does not have information sought, and the information the appellant is seeking under RTI queries (2) & (3) is in the nature of obtaining advice/opinion, hence, it does not fall under ‘information’ under section 2(f) of the Right to Information Act, 2005.
10. Accordingly, the appeal is disposed of.

**Sd/-**

**(Dr. Mukulita Vijayawargiya)**

Whole Time Member and First Appellate Authority  
Insolvency and Bankruptcy Board of India

**Copy to**

1. Mr. Julius Sevugan  
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