

**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: 25<sup>th</sup> July, 2022**

**RTI Appeal Registration No. ISBBI/A/E/22/00029**

**IN THE MATTER OF**

**Rahul Patlolla**

... 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 27<sup>th</sup> June 2022, challenging the communication of the Respondent dated 21<sup>st</sup> March 2022 with regard to his RTI Application No. ISBBI/R/E/22/00155 dated 15<sup>th</sup> March 2022 filed under the Right to Information Act, 2005 (RTI Act). In the RTI Application, the Appellant has requested for the following –  
*“1. Whether a listed Public Company which is admitted into CIRP need to comply with the other applicable laws such as The Companies Act, 2013, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. If yes then will the Resolution Professional is personally liable for all the defaults and penalties imposed on the Corporate Debtor for non compliance? what action can be taken on the Resolution Professional for such defaults?*  
*2. Whether Resolution Professional should conduct Annual General Meeting for approval of annual accounts and others related to Pre CIRP period.*  
*3. Can any shareholder file an application to the NCLT as per section 97 of the Companies Act, 2013 for its direction to hold the person in office as liable for default to call an AGM? Or As per sec 100 of the Companies Act, 2013, Can shareholders make a requisition to the Resolution Professional to hold the Extraordinary General Meeting?*  
*4. Section 14 of the Code prohibits settlement of any claim during CIRP and requires the resolution plan to deal with them together in the manner decided by the CoC subject to section 30(2) of the Code. Can someone inspect the books of accounts of the CD as per section 128 (3) of the Companies Act, 2013 and verify the transactions undertaken during CIRP?*  
*5. As per Clause 23B of the Code of Conduct, an insolvency professional shall not engage or appoint any of his relatives or related parties, for or in connection with any work relating to any of his assignments. Can someone question the Resolution professional for more details about the appointments of professionals whether he is connected to any of your previous assignments etc and whether they are charging any exorbitant fees?*  
*6. The Resolution Professional should provide access to all the information to the suspended management, CoC members and other resolution applicants, if any. Does non disclosure of non compliance of provisions of various acts amounts to compromising the possibility of revival of the CD in contravention to the provisions of the Code?*  
*7. If the Resolution Professional disqualifies to act as an director due to non compliance of LLP/ Company in which he is acting as a Director, then would it effect his existing assignments of CIRP?*  
*8. Can a person who is not CoC member can have access to the minutes of CoC and can inspect the books of Resolution Professional and the Corporate Debtor on requisition?*  
*9. If any Resolution Professional does not ratify the expenses paid to other professional with the CoC then what actions can be taken against him?*

10. If the Resolution Professional did not send CoC notices to one of the director of suspended Board then whether the meetings are sustainable under law and what actions can be taken against RP? If the Minutes of Coc meetings are not circulated within forty eight hours of conclusion of meeting then what are the consequences and what actions can be taken against RP?

11. Under what circumstances a CIRP can be declared Void.”

2. The Respondent stated that the information sought is in the nature of seeking legal opinion and the same is not covered within the definition of ‘information’ under section 2(f) of the RTI Act. Aggrieved by the response of the Respondent, the Appellant has broadly submitted the following:—

*“I have made few queries to get the information from IBBI through RTI application. But I got response as Information sought is in the nature of seeking legal opinion and the same is not covered as information under section 2(f) of the RTI Act, 2005. If RTI application is not the procedure to get such information, Kindly provide me the details on how to resolve such grievances...”*

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. As per section 19(1) of the RTI Act, an aggrieved person may prefer the first appeal within thirty days from the date of receipt of the response from the CPIO. In the instant case, the Appellant should have filed the first appeal by April 20, 2022. However, as noted above, the Appellant has filed this first appeal on Jun 27, 2022 i.e. approximately 2 months after the last date permissible under the RTI Act. In this Appeal, the Appellant has neither requested for condonation of delay nor made any submission regarding the reason for the delay. In the absence of any reason that prevented the appellant from filing the first appeal in time, I consider this Appeal as time barred and hence, liable to be dismissed *in limine*.
4. Notwithstanding the above observation, I am inclined to examine the information request in the interests of transparency that is the paramount objective of the RTI Act. 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. 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 inquisitions. 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 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. 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.”*
7. The Appellant has requested for clarifications and interpretations on the provisions of the Insolvency and Bankruptcy Code, 2016 and rules and regulations, made thereunder. Such queries of Appellant, in my view, is in nature of inquisitions soliciting guidance, advise and opinion and beyond the scope of right to information under the RTI Act. The Respondent is not bound to respond to such inquisitions under the RTI Act.
8. 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.” 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. The Appeal is disposed of accordingly.

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

**Copy to:**

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