

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

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

DATED THE 26<sup>TH</sup> OF FEBRUARY, 2018

Appeal No. ISBBI/A/2018/60002 (F. No. IBBI/AI Div./RTI Appeal/2017-18/1)

Dated: January 29, 2018

Arising out of Order dated January 19, 2018 under RTI Request No.  
ISIBBI/R/2017/50038

IN THE MATTER OF

Mr. A S Chauhan

[REDACTED]  
[REDACTED]  
[REDACTED]

Versus

..... Appellant

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/2018/60002 dated January 29, 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. A S Chauhan against the order of the CPIO, Insolvency and Bankruptcy Board of India with respect to his RTI Request No. ISIBBI/R/2017/50038.
2. On a detailed perusal of the RTI Application of Mr. A S Chauhan and his subsequent RTI Appeal it is observed that the applicant seeks the following information from the Insolvency and Bankruptcy Board of India: -
  - (1) “No. of IP registered with IBBI/ Board on the basis of 15 years’ experience in management as on 23.12.2017
  - (2) What is the definition of “experience in management” as per the Regulations?
  - (3) What is the criteria for determination of “experience in management” for the Government Sector/ Public Sector Undertaking/ Financial Institutions/ Insurance Companies?

- (4) What is the criteria for determination of “experience in management” who worked in the Private sector?
- (5) Whether the Private entrepreneurs/ partners of partnership firm/ partners in LLP or Director in the Private Ltd Company be categorized and acceptable in “experience in management” clause.
- (6) Whether a letter/ certificate given by the IP at the time of enrolment of registration of worked 15 years in management is sufficient or some enquiry is supposed to be conducted by the IPA regarding experience?
- (7) Who is responsible for ensuring that IP fulfils the criteria of 15 years as mentioned in the Regulations?
- (8) What is the mechanism for ensuring that the statement given by the IP about the “experience in management” is correct or only letter/ certificate is required? 8. What is the mechanism available with IPA or the Board to ensure the genuineness of certificates of “experience in management “provided by the eligible candidates applying for registration?
- (9) Copy of the guidelines/instructions/ email(s) etc. issued by the IBBI/ Board to the IPA to be followed at the time of scrutinizing the IP registration form about “experience in management” clause before sending to the IBBI/ Board for Registration purpose.
- (10) Whether the IBBI/ Board after receiving application from the IPA, further requires scrutinizing the application received with documents/ papers/ enclosures or depend entirely on the scrutiny of the same on the IPA.
- (11) (1) Please provide me note/ backup paper/ memo etc at the time to finalization of the said Regulation in which “experience in management” point was elaborated or finalized by the Committee or any competent authority etc. before finalization of the Regulation and this clause

(2) Total No of IP Registered by the IBBI, New Delhi category wise as on 23.12.2017:

- a. Chartered Accountant
- b. Company Secretary
- c. Cost Accountants
- d. Advocates”

**3. The CPIO, Insolvency and Bankruptcy Board of India had disposed of the RTI Application on January 01, 2018 stating that: -**

- a. “The number of IPs registered with the Board on the basis of 15 years’ experience in management as on 31.12.2017 is One Hundred and Twenty-Four (124)
- b. The requested information at 2,3,4,5,6,7,8,10 - are questions.

- c. 9. Please refer to the enclosed file detailing the instructions given to the IPAs by the Insolvency and Bankruptcy Board of India
  - d. 11(1). Reference may be made to Regulation 5 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 which were approved by the Governing Board of IBBI in its meeting after taking into consideration the public comments which were invited on the draft of the aforesaid Regulations.
  - e. 11(2). The number of IPs registered in the following category with the Board as on 31.12.2017 are as follows: Chartered Accountant - 697 Company Secretaries - 314 Cost Accountants - 93 Advocates – 96”
4. The appellant in the present appeal has averred that ‘the information sought on the points as mentioned in the supporting documents file has not been provided fully so this appeal has been preferred’.
  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 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.*
  7. The Central Information Commission in its decision No. CIC/80/A/2006/000045, dated 21.04.2006 in the case relating to Dr. D.V. Rao, Dept. of Legal Affairs Vs. CPIO, Dept. of Legal Affairs, had held that ‘the RTI Act does not cast on the public authority any obligation to answer queries in which the petitioner attempts to elicit answer to his queries with prefixes as why, what when and whether. The petitioner’s right extends only to seeking information as defined in section 2(f) either by pointing the file document, paper or record etc., or by mentioning the type of information as may be available with the specified public authority.’
  8. Further, the Insolvency and Bankruptcy Code, 2016, all Rules and Regulations made thereunder are placed on the website- ‘[www.ibbi.gov.in](http://www.ibbi.gov.in)’/public domain accessible to all. Once the information is available in the public domain, it cannot be said to be ‘held’ or ‘under the control of’ the public authority and thus ceases to be an information

accessible under the RTI Act, as held by the Hon'ble CIC in matter Shri K. Lall Vs. Shri M.K. Bagri (Order dated April 12, 2007) wherein it held: "... once an information is voluntarily disseminated it is excluded from the purview of the RTI Act and, to that extant, contributes to minimizing the resort to the use of this Act..." .

9. The appellant cannot expect the public authority to work as consultant. The Hon'ble CIC in the matter of S.K. Kapoor Vs. CPIO, SEBI & Anr. (Order dated February 21, 2007), wherein, held: "The SEBI Act, Rules, all its instructions are properly in the public domain already, which the appellant can easily access by putting up little bit of extra effort. Far from it, he wishes to treat the public authority as his Consultants who should enable him to locate provisions of Acts & Rules at public cost. This is not what the RTI Act is all about. In view of the above, there shall be no disclosure obligation regarding this item of information".
10. In view of the above, the information sought by the appellant under the points 2,3,4,5,6,7,8 and 10 are in the nature of seeking advice/opinion, therefore, it does not fall under the definition of the information under section 2(f) of the Right to Information Act, 2005. Information in respect of point 1, 9 and 11 have already been provided by the CPIO, Insolvency and Bankruptcy Board of India.

Accordingly, the appeal is disposed of.

**Sd/-**

**(Dr. Mukulita Vijayawargiya)**  
Whole Time Member and First Appellate Authority

Copy to

1. Mr. A S Chauhan

[REDACTED]  
[REDACTED]  
[REDACTED]

2. CPIO, Insolvency and Bankruptcy Board of India  
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New Delhi