

**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: 15th March, 2024

RTI Appeal Registration No. ISBBI/A/E/24/00002

IN THE MATTER OF

Shiv Kumar Roongta

... 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 20th February 2024, challenging the communication of the Respondent dated 9th February 2024 with regard to his RTI Application No. ISBBI/R/E/24/00006 dated 13th January 2024 filed under the Right to Information Act, 2005 (RTI Act). The information sought in the Application is as follows: *“Dear Sir, Please Clarify the following: 1. Any person accused in a CBI case is qualified for registration as a valuer with IBBI and can appear for the exam for the same. Your immediate reply will be highly appreciated. Thank & Regards, Shiv Kumar ”*
2. The Respondent had stated that the Rule 3 of the Companies (Registered Valuers and Valuation) Rules, 2017 deals with the eligibility for registered valuer which may be accessed in the following URL: <https://ibbi.gov.in/en/legalframework/rules> .
3. In this Appeal, the Appellant has stated that his RTI Application that *“With reference to our RTI request no. ISBBI/R/E/24/00006 dated 13.01.2024, please reply the following specifically, Any person accused in a CBI case is qualified for registration as a valuer with IBBI and can appear for the exam for the same or can continue as a registered valuer with IBBI. Your letter dated 09.02.2024 is not clear on this matter, so your specific reply is requested in public interest.”*
4. 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.”*

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 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.
6. I find that the Appellant is soliciting opinion on interpretation of the provisions of Companies (Registered Valuers and Valuation) Rules, 2017. Such requests of the Appellant are inquiries inviting and soliciting response in the nature of explanation, clarification, opinion, 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.”
7. Also, 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.*”
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/

(Jithesh John)

First Appellate Authority

Copy to:

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