

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

7TH FLOOR, MAYUR BHAWAN, NEW DELHI

DATED THE 30TH OF NOVEMBER 2018

Appeal No. ISBBI/A/2018/60013 (F. No. IBBI/RTI/Bikramjit Singh/206)

Dated: October 31, 2018

Arising out of Order dated October 31, 2018 under RTI Request No.
ISBBI/R/2018/50109

IN THE MATTER OF

Mr. Bikramjit Singh Appellant

Versus

CPIO, Insolvency and Bankruptcy Board of India

7th Floor, Mayur Bhawan

New Delhi Respondent

ORDER

1. The present Appeal No. ISBBI/A/2018/60013 dated October 31, 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. Bikramjit Singh against the order of the CPIO, Mr. Umesh Kumar Sharma, Insolvency and Bankruptcy Board of India with respect to his RTI Request No. ISBBI/R/2018/50109.
2. On a detailed perusal of the RTI Application of Mr. Bikramjit Singh, it is observed that the appellant sought information pertaining to the Insolvency and Bankruptcy Code, 2016, Corporate Insolvency Resolution Process, Bankruptcy, Insolvency and Bankruptcy Board of India, and *intern alia*, asked for-
 - (i) “Any chance of bankruptcy of Indian Nationalist banks.
 - (ii) Number of bankruptcy and insolvency companies and their name with balance-sheet.
 - (iii) Classified the factor, responsible for bankruptcy and insolvency.
 - (iv) government policies and political pressure has liable for bankruptcy.
 - (v) government role and support for both private and public companies to protect companies from bankruptcy.

- (vi) *provide data of bankruptcy companies on states wise and name of their management.*
- (vii) *Banks of India bankrupted in past, what is the today position of Indian banks in case of bankruptcy.*
- (viii) *Banks of India can suffer due to bankruptcy in future. Management can get any benefit from bankruptcy.*
- (ix) *what is the proper meaning of bankruptcy and insolvency in this site.*
- (x) *which are the records is maintained by insolvency and bankruptcy board of India.*
- (xi) *classified the scope of insolvency and bankruptcy board of India.*
- (xii) *what are the powers and functions of it.*
- (xiii) *banking system how help the country from bankruptcy if banking system bankruptcy then what happen.*
- (xiv) *Indian banks can bankrupt due to now days condition of economy and banking loss."*

3. The respondent, CPIO, Mr. Umesh Kumar Sharma, Insolvency and Bankruptcy Board of India with respect to the RTI Request No. ISBBI/R/2018/50109 of the appellant, have opined that the information so sought is not available with Insolvency and Bankruptcy Board of India.
4. The appellant raised the present appeal on the ground that the CPIO refused access to information so requested in the RTI query.
5. The present RTI appeal has been examined and I have perused the response provided by the respondent in respect of the queries raised in the RTI application.
6. In this regard 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. Also, 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.*".
8. 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.’.

9. In view of the above, it is observed that-

- (i)** in respect of the points (referred in para 2) (i), (iii), (iv), (v), (vi), (vii) and (viii), the Board does not have the information sought.
- (ii)** in respect of the point (referred in para 2) (ii), the Board does not have any specific information, however, name of the companies which have gone in Corporate Insolvency Resolution Process is available on IBBI website (www.ibbi.gov.in) under the head ‘Public Announcement’.
- (iii)** in respect of points (ix), (x), (xi) and (xii), the information is in public domain as contained in the Insolvency and Bankruptcy Code, 2016, which is available on IBBI website (www.ibbi.gov.in) under the heading ‘legal framework’.
- (iv)** the queries in the points (referred in para 2) (xiii) and (xiv), are 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. Navrang Saini)

Whole Time Member and First Appellate Authority

Copy to

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