

**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: 14th December, 2021

RTI Appeal Registration No. ISBBI/A/E/21/00032

IN THE MATTER OF

Rajansinh L Zala

... 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 23rd November 2021, challenging the communication of the Respondent dated 18th November 2021 with regard to his RTI Application No. ISBBI/R/E/21/00178 dated 27th October 2021 filed under the Right to Information Act, 2005 (RTI Act). The Appellant had sought information on 16 points in his RTI Application. In this Appeal, he has challenged the response of the Respondent on the following points : -

Information sought	Response of CPIO
7. Who is competent officer or group of officers to take decision in the matter of 2 nd proviso to sub- rule 1 of rule 5 of the Companies Registered Valuer and Valuation Rules, 2017-CRVVR, 2017?	No specific delegation of authority made for this purpose.
11. On which date, the decision of the Authority under Second proviso to Rule 5-1 that not to grant recognition to the examination conducted as a part of the masters or postgraduate degree course conducted by SPU as equivalent to valuation examination, made effective?	The communication to Sardar Patel University regarding non recognition of the examination as equivalent to valuation examination was sent vide mail dated 27th April 2021.

2. 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 matter on merits, I deem it appropriate to mention the scope of information disclosure under the RTI Act. 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.”

3. The aforesaid definition contemplates providing of material in the forms of records, documents, opinions, advices, 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(1)(a) to 8(1)(j) 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
4. Further, 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.*”
5. The Appellant in this Appeal has raised two queries i.e. (a) who is competent officer or group of officers competent to take decision on the matter raised by him; and (b) on which date the decision of the Authority was made effective. These requests are certainly questions soliciting an answer rather than any ‘*information*’ within the scope and ambit of section 2(f) of RTI Act. This Act does not create obligation on the public authority to answer queries eliciting answers to questions. In this regard, it is 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.*”
6. The IBBI (Delegation of Powers and Functions) Order is already available with the Appellant to understand the delegation of power to IBBI’s officers, and the Respondent had communicated to the Appellant that the communication to Sardar Patel University (SPU) was sent on 27th April 2021. It is clear beyond doubt that this is the date when the decision of IBBI *qua* SPU is effective. In my view, these queries of the Appellant are in nature of inquiry inviting and soliciting response in the nature of explanation, clarification, opinion etc. and are beyond the scope of ‘*information*’ under section 2(f) and the ‘*right to information*’ under section 2(j) of the RTI Act. 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. 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/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

1. Appellant, Rajansinh L Zala.
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