

**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: 21<sup>st</sup> September, 2021**

**RTI Appeal Registration No. ISBBI/A/E/21/00022  
IN THE MATTER OF**

**Sanket Garg**

... Appellant

Vs.

**Central Public Information Officer**

The Insolvency and Bankruptcy Board of India  
2nd Floor, Jeevan Vihar Building  
Sansad Marg, New Delhi- 110001

... Respondent

**ORDER**

1. The present Appeal No. ISBBI/A/E/21/00022 dated 29<sup>th</sup> August 2021 has been filed by Mr. Sanket Garg (Appellant) under the Right to Information Act, 2005 (RTI Act), against the disposal of his RTI Application No. ISBBI/R/E/21/00101 dated 18<sup>th</sup> May 2021 by the Central Public Information Officer - CPIO (Respondent), Insolvency and Bankruptcy Board of India (IBBI) on 4<sup>th</sup> June 2021. CPIO, had, *vide* communication dated 4<sup>th</sup> June, 2021 informed the Appellant that – *“Disclosing the answers to the live question bank violates the integrity of the same, which is in use. It will breach the confidentiality/ secrecy of the live question bank. Hence the information is exempted under section 8(1)(d) of the RTI Act, 2005.”* The Appellant has filed the instant Appeal against aforesaid decision stating that – *“... there is no book available of IBBI which contains the questions samples you ask in live exam. Further the study material provided is also not self-sufficient, hence request you to kindly share the questions so that we can able to understand the real format of the exam.”*
2. I have carefully considered the application, the response and the appeal and find that the matter can be decided based on the material available on record. It is noted that the Appellant has, in his Application and in the instant Appeal, asked for questions and answers (correct one as well as the answers given by him) of all the 6 attempts he had made in SFA Valuation examination required to be cleared by him for registration as Registered Valuer. It is noted that the communication of CPIO dated 4<sup>th</sup> June, 2021 made *vide* RTI Portal and was served upon the Appellant on the same date. Thus, the instant Appeal is barred by limitation period stipulated under section 19 of RTI Act as the Appellant has filed it after expiry of 30 days

from the date of receipt of the decision of the CPIO. The Appeal, therefore, deserves to be dismissed on this ground alone.

3. Without prejudice to above, it is also pertinent to mention 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. The RTI Act is meant for providing '*information*' which is not exempted under section 8. Section 8(1)(d) exempts disclosure of information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless it is shown that the larger public interest warrants the disclosure of such information. While applying these provisions, there need to be proper balancing of private right and public interest taking into account the facts and circumstances and exemptions provided in the RTI Act.
4. It is relevant to note that the questions asked in the Valuation Examinations are the intellectual property of the IBBI and are held in confidence. The IBBI prepares, updates and maintains a pool of questions which are subject to repetition on a random basis and reuse in the various upcoming Examinations. The Examinations are conducted online and the candidates appearing are not allowed to take printouts, these questions and the corresponding answers are also not provided to any of the candidates who appear for the Examination. Hence, disclosure of the questions and answers will not only be against the confidentiality and integrity of the entire Examination process but also affect the competitive position of the other aspirants as the aspirants having questions and answers in advance will have an undue advantage as the questions are likely to be repeated in the future Examinations. Moreover, setting up of question papers requires intellectual efforts and verification from panel of experts. The disclosure would increase the expenditure and the IBBI may also be required to off-set the estimated surge by increasing the examination fees. Hence, the cost of disclosing the question bank and the answers given by a candidate would be huge and against the public interest.
5. In *All India Institute of Medical Sciences v. Vikrant Bhuria*, Hon'ble Delhi High Court vide its order dated 28<sup>th</sup> May 2012 held that in super-specialty subjects with limited number of questions available in the question bank, the disclosure of such questions would encourage the students appearing for the exam to memorize the answers for the exam, thereby adversely affecting the selection of good candidates. In this regard, following observations of Hon'ble High Court are relevant to mention:

*"...if question papers are so disclosed, the possibility of the examination not resulting in the selection of the best candidate cannot be ruled out. It is pleaded that knowledge of the question papers of all the previous years with correct answers may lead to selection of a student with good memory rather than an analytical mind. It is also pleaded that setting up of such question papers besides intellectual efforts also entails*

*expenditure. The possibility of appellant, in a given year cutting the said expenditure by picking up questions from its question bank is thus plausible and which factor was considered by the Supreme Court also in the judgment aforesaid...*

*... Once the experts of the appellant have taken a view that the disclosure of the question papers would compromise the selection process, we cannot lightly interfere therewith. Reference in this regard may also be made to the recent dicta in Sanchit Bansal Vs. The Joint Admission Board (JAB): (2012) 1 SCC 157 observing that the process of evaluation and selection of candidates for admission with reference to their performance, the process of achieving the objective of selecting candidates who will be better equipped to suit the specialized courses, are all technical matters in academic field and Courts will not interfere in such processes "*

6. Further, in *All India Institute of Medical Sciences vs. Prakash Singh*, Hon'ble Delhi High Court vide its order dated 6<sup>th</sup> December 2012, while setting aside the decision of CIC to disclose the question papers and answer keys pertaining to the MBBS Entrance Examination, observed that:-

*"... there is limited number of questions available to the petitioner, and that if, this information is put out in public domain then, it would be difficult for the petitioners to select candidates on the basis of their analytical ability. In other words, the examinee may perhaps take to the rote route to qualify the examination.*

*.... they would be loathe to interfere in areas where academicians, being experts, have expressed a view, to the effect that, disclosure of question papers and keys would compromise the selection process. "*

7. Further, the Hon'ble Central Information Commission in *R. Seshadri Vs. CPIO, Medical Council of India, Delhi and Ors*, vide order dated 28<sup>th</sup> February 2017 observed that:

*"The question bank is limited and has been compiled with questions being contributed by the experts in the area. These experts have forfeited their proprietary right over the questions supplied to the NBE. The NBE does not have any commercial interest in guarding this question bank zealously. The NBE have also been applauded for conducting these exams efficiently over the years.*

*..... Given the situation, if public disclosure of questions is allowed, this would lead to dilution of standards by encouraging "cramming" which would be against the objectives of this screening test."*

8. In view of the above, the respondent has no obligation to disclose the information asked by the Appellant which is exempted from disclosure in terms of section 8(1)(d) of the RTI Act. The Appellant has not established any larger public interest for its disclosure. In fact, the disclosure of such information would not serve any public purpose rather it would harm the competitive confidence of aspirants in upcoming examinations and would in turn compromise with the public interest. I, therefore, find that there is no need to interfere with the decision of the Respondent.
9. The appeal is accordingly disposed of.

-sd-

(Santosh Kumar Shukla)  
First Appellate Authority

Copy to:

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