

**BEFORE THE EXECUTIVE DIRECTOR AND FIRST APPELLATE AUTHORITY  
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

2<sup>nd</sup> Floor, Jeevan Vihar Building  
Sansad Marg, New Delhi- 110 001

**Dated: 3<sup>rd</sup> August, 2021**

**RTI Appeal Registration No. ISBBI/A/E/21/00017**

**IN THE MATTER OF**

**Mr. Tushar Mahendrabhai Patel**

... 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 present Appeal No. ISBBI/A/E/21/00017 dated 12<sup>th</sup> July, 2021, has been filed by Mr. Tushar Mahendrabhai Patel (Appellant), before the First Appellate Authority, Insolvency and Bankruptcy Board of India (IBBI) under the Right to Information Act, 2005 (RTI Act), against the disposal of the RTI Application No. ISBBI/R/E/21/00121 by the Central Public Information Officer - CPIO (Respondent) *vide* communication dated 23<sup>rd</sup> June, 2021.
2. In his application dated 20<sup>th</sup> June, 2021 the Appellant had raised following queries:-  
*"In the case of excluded assets, there are significant differences in section 60 of CPC (code of civil procedure: 1908) and excluded assets of IBC 2016 under section 79. There are many properties that are not liable to attachment under section 60 of CPC that are not covered under excluded assets of IBC 2016. Say for examples, PPF, PF, the wages of laborers and domestic servants, salary to the extent of the first one thousand rupees and two-third of the remainder, DA and HRA of salary, the pay and allowances of persons to whom the Air Force Act, Army act or Navy act applies. So the question arises, whether all these assets that are exempted in CPC, will be attachable after implementation of IBC 2016 for the individuals? Please give us clarity on the above matter. Please do the needful."*
3. By the communication dated 23<sup>rd</sup> June, 2021 CPIO, had, informed the Appellant that –  
*"The information sought is the nature of seeking clarification/interpretation of a provision of law and does not fall under the definition of "information" under section 2(f) of the RTI Act, 2005"*

4. The Appellant has referred and expressed his following views and has asked the FAA to “Please do needful” challenging the aforesaid view of the CPIO on the ground that he thinks that his representation is not an interpretation of law, but just a matter of fact. He has submitted that -

*“As per section 180 of IBC code 2016, after implementation of IBC2016 for individuals, the civil court will not have any jurisdiction. There are significant differences in non-attachable properties in section 60 of CPC and excluded assets of IBC 2016 under section 79. So, this means that the assets which are covered in section 60 CPC and not covered in section 79 of IBC 2016, will be attachable after implementation of IBC for individuals. I think this is not an interpretation of the law, this is just a matter of fact. For example, PPF (Public Provident Fund) is not included in excluded assets in IBC 2016. So the simple fact is that after the implementation of IBC 2016, PPF will be attachable. So this is applicable for other assets which are included in section 60 of CPC and not in IBC 2016. Please do the needful.”*

5. 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 pertinent to mention here 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. Section 2(j) of the RTI Act defines the “right to information” in terms of information accessible under the Act which is held by or is under the control of a public authority. The inclusive list provides for the right to - (i) inspection of work, documents, records; (ii) taking notes, extracts or certified copies of documents or records; (iii) taking certified samples of material; (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device. 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.”
6. I find that the issues raised by the Appellant in his application and in this appeal has not asked for copy of any data, documents, records, note-sheets, etc as envisaged in section 2 (f). 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.”
7. The issues raised by the Appellant in this appeal, in my view, are nothing more than a wishful representation based upon personal assumptions. All these representations are in the nature of inquisitions soliciting response in the nature of confirming and validating the

opinion of the Appellant. Be that as it may, the Appellant, ultimately, is soliciting opinion of the CPIO on his assumptions. I find that the CPIO did not have any obligation to answer such questions as they are beyond the scope of 'information' under section 2(f) and 'right to information' under section 2(j) of the RTI Act. If the Appellant wants an answer to his issues and action as per his opinion, the remedy is not under the RTI Act.

8. In this regard, 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."
9. I, therefore, find that the request of the Appellant cannot be entertained and no interference with response of the CPIO is called for. The appeal is disposed of accordingly.

Sd/

**(Santosh Kumar Shukla)**  
First Appellate Authority

**Copy to:**

1. Appellant, Mr. Tushar Mahendrabhai Patel.
2. CPIO, The Insolvency and Bankruptcy Board of India, 2<sup>nd</sup> Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.