

**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: 25th November, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00047

IN THE MATTER OF

Komal Kumar

... 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 28th October 2022, challenging the communication of Respondent dated 28th October 2022 stating that the “*Information sought is in the nature of seeking opinion and the same is not covered under the definition of information under section 2(f) of the RTI act.*” The Appellant had *vide* his RTI Application No. ISBBI/R/E/22/00253 dated 27th October 2022 filed under the Right to Information Act, 2005 (RTI Act), requested for the following: –
“*Why are Foodball Chain of eight stores spread across the Nation having a top line worth thousands of crores and admittedly operated by TNSI Retail Pvt. Ltd (A 100 percent owned Subsidiary of Future Retail Ltd.) in capacity of a Franchisee till April 2023 as claimed in the fraudulent agreement are not on sale under insolvency procedure of Future Retail Ltd?*”
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 dealing with matter in issue in the instant appeal, I deem it appropriate to examine the scope of information and right to receive it from a public authority. 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.*” 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.
3. I find that the Appellant is soliciting opinion as to why are the food chain of eight stores are not on sale under insolvency of Future Retail Ltd. Such requests of the Appellant are inquisitions inviting and soliciting response and reasons as to why a certain thing was done or not done. Same 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.”

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