

**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: 4th March, 2022

IN THE MATTER OF

Sudhir Khurana

... 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 8th February 2022, challenging the communication of the Respondent dated 10th January 2022 with regard to his RTI Application No. ISBBI/R/P/21/00033 dated 13th December 2021 filed under the Right to Information Act, 2005 (RTI Act).
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. The Appellant had, in his Application, stated that he filed a complaint against Mr. Alok Kaushik, IRP in the matter of Praveer Constructions Pvt. Ltd on 21st July 2021 with IBBI. He therefore, wanted (i) copy of IBBI orders, and (ii) inspection report. The Respondent had responded stating that *“the information sought by the applicant is not available in the said matter.”*
3. In the Appeal, the appellant has stated that hopefully IBBI had successfully completed inspection and detected perjury, fraud, etc. and has requested for (i) status of complaint and (ii) inspection report.
4. 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.
5. The aforesaid definitions contemplate providing of material in the forms of records, documents, opinions, advices, etc. It does not include giving opinions or initiating actions on representations/complaints as asked by the Appellant. The apprehensions, inquisitions and hypothecations of the Appellant in my view, are beyond the scope of right to information under the RTI Act. The Respondent cannot create information and furnish it to the Appellant. The Hon’ble CIC in *M Jameel Basha Vs. CPIO, Ministry of Personnel Public*

Grievances & Pension, Department of Personnel & Training, North Block, New Delhi -110001, File No: CIC/MPERS/A/2017/158527/SD (Decision dated 06.05.2019), has observed the following:

“Commission concedes with the submission of the CPIO as no information has been sought as per Section 2(f) of the RTI Act. It may be noted that under RTI Act, CPIO is not supposed to create information or interpret/clarify/deduct information in respect of queries/clarifications. Similarly, redressal of grievance, non-compliance of rules, contesting the actions of respondent public authority and suggesting correction in government policies are outside the purview of the RTI Act.”

6. It is also relevant to mention that the Hon’ble CIC in *Mr. Subrata Guha Ray Vs. CPIO*, Appeal No. CIC/SB/A/2016/001025/CBECE-BJ (Order dated 03.03.2017), has *inter-alia* observed that:

“.... under the provisions of the RTI Act, 2005, only such information as is available and existing and held by the public authority or is under control of the public authority can be provided. The PIO is not supposed to create information that is not a part of the record. He is also not required to interpret information or furnish replies to hypothetical questions.”

7. I also note that the Appellant had asked for the (i) copy of IBBI orders, and (ii) inspection report, in the RTI Application but in the Appeal, he is seeking the (i) status of complaint, and (ii) inspection report. As the request in the Appeal and application of the Appellant are different, the Appellant cannot be permitted to enlarge the scope of his application in the appeal stage. In this regard, the following observation of Hon’ble CIC in *Shri Harish Prasad Divedi v. Bharat Petroleum Corporation Ltd.* (Case No. CIC/LS/A/2013/001477SS) is relevant:

“... the Commission agrees with the Respondents that the information now sought by the Appellant in the present appeal did not form part of his original RTI application. Therefore, the Commission is not in a position to allow the disclosure of the information which had not even been sought by the appellant in his RTI application. An information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage. No disclosure can, therefore, be directed to be made in the present appeal of the Appellant. The Appellant, however, may file a fresh RTI application, if he so desires.”

8. In view of the above, I find that there is no need to interfere with the decision of the Respondent. Though the request about status of complaint is beyond the scope of Appeal, in the interest of transparency, I request Respondent to share status of complaint of the Appellant with him within ten days of this order.
9. The appeal is accordingly dismissed.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

1. Appellant, Sudhir Khurana.
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