

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

7th Floor, Mayur Bhawan, Shankar Market,
Connaught Circus, New Delhi -110001

Dated: 8th August, 2024

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal Registration No. ISBBI/A/E/24/00019**

IN THE MATTER OF

Jitender Kumar Jain

... Appellant

Vs.

Central Public Information Officer

The Insolvency and Bankruptcy Board of India

7th Floor, Mayur Bhawan, Shankar Market,

Connaught Circus, New Delhi -110001

... Respondent

1. The Appellant has filed the present Appeal dated 10th July 2024, challenging the communication of the Respondent dated 12th June 2024 with regard to his RTI Application No. ISBBI/R/E/24/00084 dated 11th May 2024 filed under the Right to Information Act, 2005 (RTI Act).

2. The queries raised in the RTI Application, and the reply of the Respondent is as follows –

S. No.	Information sought	Reply
1	Please provide the details of disciplinary action taken against the officers of IBBI who issued circular dated 28 September 2023 titled Clarification with respect to Liquidators fee which was partially set aside by the Hon'ble Bombay High Court vide order dated 04 April 2024 in the matter of Amit Gupta vs. Insolvency and Bankruptcy Board of India.	The applicant has sought information on the basis of a presumption, the information of which is not available with IBBI.
2	Please provide the details of total amount of legal cost incurred by IBBI to defend the circular dated 28 September 2023 titled Clarification with respect to Liquidators fee before the Hon'ble Bombay High Court in the matter of Amit Gupta vs. Insolvency and Bankruptcy Board of India AND Union of India.	The details regarding legal cost incurred by IBBI is not available as the invoice of advocate is yet to be received. Further, the fee of advocates is payable in terms of the Guidelines dated 17.03.2022 for empanelment of Advocates by IBBI available on website of IBBI and accessible at

		https://ibbi.gov.in/en/legal-framework/guidelines .
3	Please provide the details of legal cost, as per query 2, which is recovered by IBBI from its erring officer who issued said circular.	The applicant has sought information on the basis of a presumption, the information of which is not available with IBBI.

3. The Appellant, in his Appeal stated that: the Respondent has not provided the requested information.
4. 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 request, I deem it appropriate to deal with scope of information and right to receive the information under the RTI Act. It is noted that 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.*” This definition contemplates providing of material in the forms of records, documents, opinions, advice, 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 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.
5. With regard to first and third query, the Appellant wants to know the (i) details of disciplinary action taken against the officers of IBBI and (ii) costs recovered by IBBI from its officers for the litigation related to IBBI’s circular. This query is based on the assumption that IBBI has taken action against its officers. However, such query is hypothetical and cannot be dealt under the RTI Act. Further, the Respondent is expected to provide information as available on record. As no such information is available on record, no information can be provided to the Appellant by the Respondent. The CPIO cannot be expected to create and provide any other information which could be assumed or imagined by the information seeker. 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 that:

“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. With regard to query number 2, Respondent has provided the information available. Accordingly, I do not find any reason to further interfere with the decision of the Respondent.
7. In view of above, I do not find any reason to interfere with the decision of the Respondent. The appeal is disposed of accordingly.

Sd/
(Jithesh John)
First Appellate Authority

Copy to:

1. Appellant, Jitender Kumar Jain.
2. CPIO, The Insolvency and Bankruptcy Board of India, 7th Floor, Mayur Bhawan, Shankar Market, Connaught Circus, New Delhi -110001.