

**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: 8th August, 2023

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal Registration No. ISBBI/A/E/23/00027**

IN THE MATTER OF

Gaurav Saini

... 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

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1. The Appellant has filed the present Appeal dated 10th July 2023, challenging the communication of the Respondent dated 23rd June 2023 in respect of his RTI application no. ISBBI/R/E/23/00071 filed under the Right to Information Act (RTI Act). 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.
 2. It is noted that in his RTI application, the Appellant had *inter-alia* requested for the following –

“Provide the relevant Office Orders/ Office Memorandum/ Circulars/ rules/ regulations (by whatever name called) governing all of the perks and allowances paid to the Regular and Permanent Employees of IBBI at each level. For eg. Office Orders/Office Memorandum/ Circulars/ rules/ regulations governing Domiciliary Medical Benefits to the employees..”
 3. The Respondent has provided the following reply –

“Information not available”
 4. Aggrieved by the same, the Appellant has, while reiterating the request made in the RTI application, has submitted the following in the Appeal –

*“I had asked for relevant Office Orders/ Office Memorandum/ Circulars/ rules/ regulations (by whatever name called) governing all of the perks and allowances paid to the Regular and Permanent Employees of IBBI at each level. Foreg. Office Orders/Office Memorandum/ Circulars/ rules/ regulations governing Domiciliary Medical Benefits to the employees in my RTI application. However, it was replied that information is not available.
How, this is possible. How does the organisation, sanction payment to its employees without any relevant guidelines, rules, circulars, Office Memorandum. This is misleading and suppression of facts which the intent of RTI Act 2005.”*
 5. 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. 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. While the "*right to information*" flows from section 3 of the RTI Act, it is subject to other provisions of the Act. 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. 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.

6. I note that the Appellant asked for the Office Orders/Office Memorandum/Circulars/rules/regulations regarding the perks and allowances to regular and permanent employees of IBBI. In this regard, the Respondent is expected to provide information as available on record. The CPIO cannot be expected to create and provide any 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, noncompliance of rules, contesting the actions of respondent public authority and suggesting correction in government policies are outside the purview of the RTI Act.*"

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. As the information in the nature of Office Orders/Office Memorandum/Circulars/rules is not available, same was not provided by the Respondent. With regard to regulations, the pay and allowances is governed by the Insolvency and Bankruptcy Board of India (Employees Service) Regulations, 2017, which are already available in the public domain.
8. In view of the above, I do not find any reason to interfere with the decision of the Respondent. Accordingly, the Appeal is disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

1. Appellant, Gaurav Saini.
2. CPIO, The Insolvency and Bankruptcy Board of India, 2nd Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.