

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

Dated: 15th February, 2023

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal Registration No. ISBBI/A/E/23/00005**

IN THE MATTER OF

Mohit Rasiklal Mehta

... 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

The Appellant has filed the present Appeal dated 20th January 2023, challenging the communication of the Respondent dated 20th December 2022 with regard to his RTI Application No. ISBBI/R/T/22/00022 dated 5th December 2022 filed under the Right to Information Act, 2005 (RTI Act).

2. I have carefully examined the application, the response of the Respondent and the submissions made in the Appeal. 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 the RTI Act. It is also clear that the “*right to information*” under section 3 of the RTI Act is circumscribed by RTI Act itself as the right is limited within scope of ‘*information*’ as defined under section 2(f) and is subject to other provisions including those under section 7(9) of the Act. Accordingly, the Respondent is expected to provide ‘*information*’ as available on record.
3. The first request of the Appellant is regarding jurisdiction and power to issue certificate of value of land owned by President of India/Port Authority/ Salt Commissioner. In my view the Respondent has rightly replied that the information is not available with IBBI. In the Appeal, the Appellant has *inter-alia* stated that –
“... .. if Salt Authority or Port Authority doing valuation of their land before 18/10/2017 from registered valuer registered under section-34AB of WT Act,1957, IBBI Registered valuer cannot undertake such land valuation other than companies act,2013 purposes or Insolvency and IBC CODE,2016 purposes unless they also hold registration under section 34AB of Wealth Tax Act,1957 in immovable property category. Hence information must be provided by CPIO.”
4. I hold that the CPIO cannot be expected to create and provide any information which could be assumed or imagined by the information seeker. In this regard, it is pertinent to mention that 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.”

5. With regard to request for copy of the provisions for disciplinary action for undertaking valuation of land of Salt Commissioner / Port Authority being a registered valuer registered with IBBI under Section 247 of Companies Act, 2013 read with Companies (Registered Valuer and Valuation) Rules, 2017, it is noted that the Respondent had informed the Appellant that Chapter IV of the Companies (Registered Valuers and Valuation) Rules deals with ‘cancellation or suspension of certificate of registration or recognition’. The link to the said Rules was also provided by the Respondent to him. I find that the Respondent had provided the information in accordance with the RTI Act when seen in the context of information request of the Appellant. Now, in the Appeal, the Appellant has taken a different stand and asked for an altogether different information as following : –

“RTI applicant wants information regarding order passed by IBBI against registered valuer for doing valuation of Port Land or Salt Commissioner Land which is not a company owned land and not an company assets, is demanded. However because information not provided rather rules link is provided which is available with every one as it is available on IBBI website. Hence request to CPIO to provide the exact information required.”

6. Firstly, such request can not be entertained in appeal as this was not a request in the RTI application before the Respondent. I, therefore, do not find fault with the response of the Respondent on this count. 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.”

7. Further, the request in Appeal is in the nature of inquiry or inquisition. 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. 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 as asked by the Appellant. Such grievances of the Appellant cannot be dealt under RTI Act.

8. With regard to the query regarding purposes for which valuer registered with IBBI under Companies Act 2013 can offer services is concerned, same amounts to seeking opinion of the Respondent. Same is not permitted under RTI Act and I do not find fault with response of the Respondent on this request of the Appellant.
9. With regard to request for copy of restriction imposed on a person registered as a valuer with IBBI in particular asset class i.e. land and building or plant and machinery or both, for undertaking land and building / Plant and machinery valuation other than companies owned land and building and plant and machinery, the Respondent has denied the information stating that the said information is not available on record with IBBI. In the Appeal, the Appellant has stated that –
“....the companies registered valuer and valuation rules, 2017 is applicable to companies owned assets and registered valuer. It cannot apply to who of India for verity of purposes. hence CPIO rather hiding clearly state restriction of IBBI registered valuer. i.e. IBBI registered valuer cannot undertake valuation of other than companies assets and for purposes mentioned in company act, 2013. any land owned by president of India, Port Authority or Salt commissioner is not a company's owned land. hence there cannot be application of Companies (registered valuer and valuation) rules,2017criteria possible. Hence unregistered person i.e. registered valuer is stopped.”
10. As the CPIO cannot be expected to create and provide any information which could be assumed or imagined by the information seeker, I reject this request of the Appellant.
11. In view of the above, I do not find any reason to interfere with the decision of the Respondent.
12. The appeal is disposed of accordingly.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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