

**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 August, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00034

IN THE MATTER OF

Ashutosh Kumar Singh

... 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 the present Appeal dated 27th July 2022, challenging the communication of the Respondent dated 14th June 2022 with regard to his RTI Application No. ISBBI/R/E/22/00136 dated 29th May 2022 filed under the Right to Information Act, 2005 (RTI Act) on the following requests –
“... 1. *Confirm that Ms. Mamta Suri was working on deputation as ED with IBBI from 2017 to 2019.*
2. *What was the qualifications claimed by her in her application while applying for the above post.*
3. *Did she claim herself to be LLB in her application.*
4. *Please furnish the copy of the application and also the copy of the LLB mark sheet and LLB Degree certificate.*
5. *Clarify the basis on which the IBBI issued the press release in August, 2017 claiming that Ms. Mamta Suri has done graduation in law? Please provide documentary evidence in support of your stand/ view.*
6. *Did she apply for the position of ED in IBBI. If yes, furnish the copy of her application alongwith its enclosures....”*
2. The Respondent had denied the requests at point 2, 4 and 6 claiming exemptions under section 8(1)(e) and 8(1)(j) of the RTI Act and point 3 and 5 claiming the same does not fall within the definition of ‘information’.
3. Aggrieved by the response of the Respondent, the Appellant has *inter-alia* submitted the following in this Appeal: –
 - a. Query 2 – Section 8(1)(j) is not relevant as there are serious allegations against Ms. Suri. Ms Suri has never taken permission for pursuant full time LLB degree and nor taken any leave for this course. There is larger public interest involved as she is a public servant.
 - b. Query 3 - Section 8(1)(j) is not relevant as there is no intrusion in her private life. She was a public servant and disclosure of educational qualifications has to be done on suo moto basis on website.

- c. Query 4 – The information is not exempted under section 8(1)(e) and 8(1)(j). A bigger public interest is involved as she held position of ED in IBBI through her LLB Degree. Also, there is no fiduciary relationship.
 - d. Query 5 – Same falls within the definition of ‘information’ and on the basis of her CV and educational qualifications, IBBI had released a press release in August 2017 claiming that Ms. Suri has done graduation in law.
 - e. Query 6 – There is no fiduciary relationship if fraud is committed as she has breached the trust of IBBI by acquiring qualifications through unfair and fraudulent means. The degree needs to be cancelled and legal action be taken against her.
4. I have carefully examined the application, the response of the Respondent and the Appeal. 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.*”. The aforesaid 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 inquisitions. 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. The Appellant has requested for details of qualifications of Ms. Suri, the application submitted by Ms. Suri to IBBI and her LLB degree and marksheet, the basis of press release issued by IBBI in August 2017, and query whether she applied for the post of ED in IBBI. I note that several inquisitions of Appellant are in nature of asking questions seeking clarification and do not fall in the purview of definition of *information*. The requests of Appellant for confirmations from Respondent (i) if Ms. Suri has claimed herself to be LLB in her application and (ii) the basis on which the press release was issued by IBBI, are inquisitions inviting and soliciting response in the nature of explanation, clarification, opinion, etc. and 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.”

6. Further, section 8(1)(e) of the RTI Act exempts information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information. In *Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal* (Civil Appeal Nos. 10044, 10045 and 2683 of 2010), Hon'ble Supreme Court of India observed that: *"Fiduciary relationships, regardless of whether they are formal, informal, voluntary or involuntary, must satisfy the four conditions for a relationship to classify as a fiduciary relationship. In each of the four principles, the emphasis is on trust, reliance, the fiduciary's superior power or dominant position and corresponding dependence of the beneficiary on the fiduciary which imposes responsibility on the fiduciary to act in good faith and for the benefit of and to protect the beneficiary and not oneself..... What would distinguish non-fiduciary relationship from fiduciary relationship or an act is the requirement of trust reposed, higher standard of good faith and honesty required on the part of the fiduciary with reference to a particular transaction(s) due to moral, personal or statutory responsibility of the fiduciary as compared to the beneficiary, resulting in dependence of the beneficiary."*
7. It is trite to say that IBBI receives personal information of employees while taking them in its employment in terms of Regulations governing such employments. The information is received in applications in confidence and under a fiduciary relationship. I am convinced that there is fiduciary angle to the relationship between the Ms. Suri and IBBI, and the disclosure of requested information is exempted under section 8(1)(e).
8. Section 8(1)(j) of the RTI Act exempts information which relates to personal information, the disclosure of which has no relationship to any public activity or interest. If the information sought for is personal and has no relationship with any public activity or interest or it will not sub-serve larger public interest, the Respondent is not legally obliged to provide that information. The Hon'ble Supreme Court in *Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizvi and Ors.* (Civil Appeal No. 9052 of 2012 (Arising out of SLP (C) No. 20217 of 2011) vide Order dated 13th December 2012 observed that – *"In terms of this provision, information which relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual would fall within the exempted category, unless the authority concerned is satisfied that larger public interest justifies the disclosure of such information. It is, therefore, to be understood clearly that it is a statutory exemption which must operate as a rule and only in exceptional cases would disclosure be permitted, that too, for reasons to be recorded demonstrating satisfaction to the test of larger public interest. It will not be in consonance with the spirit of these provisions, if in a mechanical manner, directions are passed by the appropriate authority to disclose information which may be protected in terms of the above provisions."*

In *Canara Bank v. C.S. Shyam and Anr.* (Civil Appeal No. 22 of 2009) vide decision dated 31st August 2017, the Hon'ble Supreme Court observed as follows -

"In our considered opinion, the aforementioned principle of law applies to the facts of this case on all force. It is for the reasons that, firstly, the information sought by respondent No.1 of individual employees working in the Bank was personal in nature; secondly, it was exempted from being disclosed under Section 8(j) of the Act and lastly, neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information of the individual employee and nor any finding was recorded by the Central Information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No.1."

In H.E. Rajashekarappa v/s State Public Information Officer & Others, Writ Petition No.10663 of 2006 (GM-RES) decided on, 01 July 2008, the Hon'ble High Court of Karnataka observed that –

“The object of the Act is to provide right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. In view of the above provisions excerpted, it cannot be said that Section 2(f) of the Act encompasses the personal information of the officials of the public authority. The intention of the legislation is to provide right to information to a citizen pertaining to public affairs of the public authority. Therefore, the respondent No.3 had no right under the Act to seek personal information of the petitioner...”

Further, the First Appellate Authority in Dr. Shivani Sandesh Mayekar Vs. CPIO, SEBI, Mumbai (Appeal No. 1608 of 2013) vide Order dated February 21, 2013 had also observed that -

“the disclosure of information relating to the name, designation, etc. of SEBI official(s), is exempt under sections 8(1)(g) and 8(1)(j) of the RTI Act. In view of these observations, I find that the respondent was justified in invoking the provisions of sections 8(1)(g) and 8(1)(j) of the RTI Act, in his response, while denying the information as sought by the appellant, through the instant query.”

9. In view of above, I find that the information requested are exempted under section 8(1)(e) and section 8(1)(j) of the RTI Act. Further, I am also not satisfied as to how a larger public interest is involved. Merely because Ms. Suri is a public servant, will not suffice to agree that information disclosure would be in public interest. As such, I find no valid ground to outweigh the scope of exemption under section 8(1)(e) and 8(1)(j).
10. In view of the above findings, I do not find any reason to interfere with the decision of the Respondent. The Appeal is disposed of accordingly.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

1. Appellant, Ashutosh Kumar Singh.
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