

**WHOLE TIME MEMBER AND FIRST APPELLATE AUTHORITY
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

7TH FLOOR, MAYUR BHAWAN, NEW DELHI

DATED THE 3RD OF MAY, 2018

Appeal No. ISBBI/A/2018/60004 (F. No. IBBI/RA/2017-18/52)

Dated: April 13, 2018

Arising out of Order dated April 9, 2018 under RTI Request No.
ISBBI/R/2018/50019

IN THE MATTER OF

Mr. Ankit Garg

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██
██

..... Appellant

Versus

CPIO, Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan
New Delhi

..... Respondent

ORDER

1. The present Appeal No. ISBBI/A/2018/60004 dated April 13, 2018 received in the office of the First Appellate Authority (**FAA**), Insolvency and Bankruptcy Board of India under the Right to Information Act, 2005 has been preferred by Mr. Ankit Garg against the order of the CPIO, Insolvency and Bankruptcy Board of India with respect to his RTI Request No. ISBBI/R/2018/50019.
2. On a detailed perusal of the RTI Application of Mr. Ankit Garg and his subsequent RTI Appeal it is observed that the applicant seeks the following information from the Insolvency and Bankruptcy Board of India: -
“...I want to know that whether 10 years of experience prescribed in said Regulation will include a member of any professional bodies mentioned in the said regulation, who is enrolled only as a member of professional body mentioned in the said regulations, for more than 10 years but neither having certificate of practice of that profession nor anywhere in employment (i.e. without any experience)”.

3. The CPIO, Insolvency and Bankruptcy Board of India had disposed of the RTI Application on April 09, 2018 stating that: -
“The eligibility criteria/qualification & experience criteria for registration of the Insolvency Professional is covered under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 read with the IBBI (Insolvency Professionals)(Amendment) Regulations, 2018 and the said regulations are available on the website of Insolvency and Bankruptcy Board of India www.ibbi.gov.in under the tab Legal Framework.”
4. The appellant in the present appeal has averred that “with reference to information dated 09.04.2018 supplied by learned CPIO Ms. Anita Kulshrestha, information sought regarding ten years of experience specified in the Regulation remain unanswered as I do not find definition of ten years of experience in IBBI (Insolvency Professionals) Regulations, 2016 read with the IBBI (Insolvency Professionals) Amendment Regulations, 2018”.
5. The present RTI appeal has been examined and also the reply given by the CPIO with respect to RTI application in the light of the judgments of the Hon’ble Supreme Court and orders of Hon’ble CIC.
6. The Hon’ble Supreme Court of India in the matter of *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors.* (Civil Appeal No. 6454 of 2011), has, inter alia, held: "*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.*
7. The Central Information Commission in its decision No. CIC/80/A/2006/000045, dated 21.04.2006 in the case relating to Dr. D.V. Rao, Dept. of Legal Affairs Vs. CPIO, Dept. of Legal Affairs, had held that ‘the RTI Act does not cast on the public authority any obligation to answer queries in which the petitioner attempts to elicit answer to his queries with prefixes as why, what when and whether. The petitioner’s right extends only to seeking information as defined in section 2(f) either by pointing the file document, paper or record etc., or by mentioning the type of information as may be available with the specified public authority.’
8. Further, the Insolvency and Bankruptcy Code, 2016, all Rules and Regulations made thereunder are placed on the website- ‘www.ibbi.gov.in’/public domain accessible to all. Once the information is available in the public domain, it cannot be said to be ‘held’

or ‘under the control of’ the public authority and thus ceases to be an information accessible under the RTI Act, as held by the Hon’ble CIC in matter Shri K. Lall Vs. Shri M.K. Bagri (CIC/AT/A/2007/00112, Order dated April 12, 2007) wherein it held: “... once an information is voluntarily disseminated it is excluded from the purview of the RTI Act and, to that extent, contributes to minimizing the resort to the use of this Act...” .

9. The appellant cannot expect the public authority to work as consultant. The Hon’ble CIC in the matter of *Sh. Alok Shukla vs. CPIO, SEBI* (File No. CIC/SM/A/2012/001838, Order dated May 23, 2013), held: “*While dealing with RTI, we should not forget that information means only an existing material record. The CPIO can provide the copy of the available records; he cannot create new records in order to address specific queries of the Appellant.*”
10. In view of the above, the information sought by the appellant are in the nature of seeking advice/opinion, therefore, it does not fall under the definition of the information under section 2(f) of the Right to Information Act, 2005.

Accordingly, the appeal is disposed of.

Sd/-
(Dr. Mukulita Vijayawargiya)
Whole Time Member and First Appellate Authority

Copy to

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