

**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: 21st April 2025

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal Registration No. ISBBI/A/E/25/00059**

IN THE MATTER OF

Venkatram Rajesh P

... 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

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1. The Appellant has filed the present Appeal dated 7th March 2025, challenging the communication of the Respondent, filed under the Right to Information Act (RTI Act). As the Appeal required a detailed analysis of different provisions of the RTI Act, the same is disposed of within 45 days of receiving the impugned Appeal.
 2. The Appellant had sought information about the registration certificates, governance framework, composition and the law governing the Institution of Valuers (IOV) and the IOV Registered Valuers Foundation (IOVRVF). Moreover, the Appellant sought information on the financial records and overlapping activities conducted by the IOV and IOVRVF. The Respondent CPIO has, *inter-alia*, replied that the information sought by the Appellant is beyond the scope of information enshrined under Section 2(f) of the RTI Act. Moreover, the Respondent CPIO has denied the disclosure of information pertaining to inspections/notices issued by IBBI to IOVRVF and copies of Memorandum of Association (MoA) and Articles of Association (AoA) of IOVRVF filed with the IBBI, as exempted from disclosure under Section 8 of the RTI Act. The Appellant has filed the present Appeal stating that the Respondent CPIO has, *inter-alia*, wrongly denied the information requested by the Appellant.
 3. I have carefully examined the applications, the responses of the Respondent and the Appeals 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.

4. On the query for registration certificates of IOV and IOVRVF, the Appellant has challenged the CPIO's reply on the ground that registration certificates should have been provided in a certain format and the link, provided in the CPIO's reply is incomplete. I find that the Respondent, under the RTI Act, is required to furnish information/documents as available on record and is not supposed to collect and collate information in the manner in which it was sought by the Appellant. The Hon'ble Supreme Court in decision dated 09th August, 2011 in the matter of *CBSE & Anr. Vs. Aditya Bandopadhyay & Ors.* (C.A. No. 6454 of 2011) held, "*But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant..... The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing information furnishing, at the cost of their normal and regular duties*". Since the Respondent CPIO has already provided an accessible link to the requested information, the Respondent CPIO is not obligated to provide the required information in a straight-jacket format.
5. On the queries for information pertaining to operational dynamics, financial records, Continuing Education Programs (CEP) seminars and resources shared between the IOV and IOVRVF, the Respondent CPIO has replied that no such documents are available with them. In my view, the Respondent is expected to provide information as available on record and not create any information out of thin air. Accordingly, as no information is available with CPIO, he cannot be expected to provide any other information. Same is beyond the scope of 'right to information' under section 2(j) of the RTI Act which limits the information to one 'accessible' under the RTI Act and '*which is held by or under the control of any public authority*'. Moreover, the Appellant sought declarations made by IOV to IBBI, and the funds raised by IOV for CEP seminars. The Respondent CPIO cited non-availability of information sought. In this context, I note that the Hon'ble Supreme Court of India in the matter of *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011), inter alia held: "*The RTI Act provides access to all information that is available and existing. ...But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.*" Further, I note that the Hon'ble CIC in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: "*... if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given.*"
6. On the queries on whether the IOV and IOVRVF are required to operate as separate entities, validity of CEP points issued by RVO for IOV-run programs, whether IOV members are automatically required to attain IOVRVF membership under the IBBI regulations and whether practices requiring resources sharing between IOV and IOVRVF is permissible under the IBBI regulations, in my view, such requests of the Appellant 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." Furthermore, as stated in the Guide on the RTI Act issued by the DoPT under OM No. 1/32/2013-IR dated 28th November 2013, *"The Public Information Officer is not supposed to create information that is not a part of the record of the public authority. The Public Information Officer is also not required to furnish information which require drawing of inference and/or making of assumptions; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions."*

7. On the queries seeking copies of inspection reports, notices or orders issued by IBBI to IOVRVF and copies of MoA and AoA of IOVRVF submitted to IBBI, the Respondent CPIO has denied disclosure on the grounds of exemptions under Section 8(1)(h) and Section 8(1)(e) of the RTI Act respectively. Section 8(1)(h) of the RTI Act states, *"information which would impede the process of investigation or apprehension or prosecution of offenders."* In this regard, I note that the inquisition of the Appellant is in connection with pending enforcement action against IOVRVF. Such inquisition, in my view, impedes enforcement action of IBBI and even if construed as 'information' request, any disclosure by answering such inquisition would be covered under specific exemption provided under section 8(1)(h) of the RTI Act. With regard to the second query, Section 8(1)(e) states as follows, *"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"*. IOV-RVF has been recognized by the IBBI to enrol and regulate registered valuers as its members in accordance with the Companies (Registered Valuers and Valuation) Rules, 2017. The MoA and AoA are filed by the IOVRVF under its fiduciary relationship with IBBI. I note that 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."* I am convinced that there is fiduciary angle to the relationship between the IOVRVF and IBBI, and the disclosure of requested information is exempted under section 8(1)(e) also. I am also not satisfied as to how a larger public interest is involved. As such, I find no valid ground to outweigh the scope of exemptions under Section 8(1)(h) and Section 8(1)(e) respectively.
8. The Appeal is, accordingly, disposed of.

Sd/-

(Kulwant Singh)

First Appellate Authority

Copy to:

1. Appellant, Venkatram Rajesh P

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