

**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: 16th June 2025

**Order under section 19 of the Right to Information Act, 2005 (RTI Act) in respect of RTI
Appeal Registration No. ISBBI/A/E/25/00084**

IN THE MATTER OF

Kairav Anil Trivedi

... 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 3rd May 2025, challenging the communication of the Respondent, filed under the Right to Information Act (RTI Act). As the Appeal required detailed analysis of different provisions of the RTI Act, this Appeal is being disposed of within 45 days.
 2. The Appellant had sought the following information in the impugned RTI application, "1. The copy of the internal order passed by the Board u/s regulation 7(2) directing an Investigating Authority. 2. The internal order of Board mandated u/r 7(3) directing an investigation shall contain particular specified under (a) to (f) of INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSPECTION AND INVESTIGATION) REGULATIONS, 2017. 3. The Internal records including, documents, memos, e-mails, opinions, advices, orders, reports, papers as mandated u/r 7(4) which records on paper that the Board and Investigating Authority has made every effort to keep the investigation confidential. 4. The Internal records including, documents, memos, e-mails, opinions, advices, orders, reports, papers as mandated u/r 7(4) which records on paper that the Board and Investigating Authority has made every effort to cause least burden on the IP. 5. The Internal records including, documents, memos, e-mails, opinions, advices, orders, reports, papers as mandated u/r 7(4) which records on paper that the Board and Investigating Authority has made every effort to ensure no disruption to the Business of the Service provider. 6. The Internal records including, documents, memos, e-mails, opinions, advices, orders, reports, papers as mandated u/r 7(5) modifying the order passed u/r 7(2). 7. The Copy of the Internal Report as submitted by the Investigating Authority to the Board along with all the evidences on record as mandated u/r 10 (1). 8. Independent assessment made by the Board in writing whether investigation is complete and satisfactory or requires further investigation as mandated u/r 10(2). 9. Copy of the advice in writing given by the Board to the Investigating Authority, within 15 days of receipt of the investigation report, as mandated u/r 10(2) Internal orders of advice by the Board to the Investigating Authority in writing duly signed and dated as mandated u/r 10 (3) documents on record that only after taking into account advice of the Board. 10. Internal records including, documents, memos, e-mails, opinions, advices, orders, reports, papers duly signed and dated which records the receipt of the that Investigation report u/s 10 as mandated u/r 11(1) 11. records as mandated u/r 11(1) that the Board has Independently Considered the Investigation report. 12. Copy of all the documents materials and evidence on records, considered by the Board before forming a Prima Facie opinion as mandated u/r 11(2) 13. IBBI showing independent application of mind by the board thereby an independent assessment has been done by the Board, as clearly distinguished from the report obtained 14. All papers and proceedings related

to the factors listed in Reg. 12(2) of IBBI (Inspection And Investigation) Regulations, 2017?" The CPIO Respondent has replied that the RTI Application does not clearly specifies the investigation for which the information is being sought. Aggrieved by the same, the Appellant has filed the present Appeal by stating that the investigation pertains to **SCN No. COMP 11011/35/2024 IBBI** dated 04.10.24, and, *inter-alia*, reiterated the information requested in the impugned RTI Application.

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. In this regard, I note that the documents, records etc. pertaining to query no. 1, 2, 7, 8, 10, 11, 12, 13 & 14 of the impugned RTI Application have been previously supplied to the Appellant by the CPIO Respondent *vide* **RTI No. ISBBI/R/E/25/00142** sent on 20 May 2025. As the information available on record has already been provided, he cannot provide any other information as it 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*'.
5. Moreover, it is pertinent to note that the information pertaining to query nos. 3, 4, 5, 6 & 9 of the impugned RTI Application are not available with the Board. It is settled position that the CPIO cannot be expected to create any new information, for sharing to a RTI Applicant. 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, 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.*"
6. Apart from the aforementioned queries, the Appellant has raised some new queries in the impugned RTI Appeal as follows, "11. Copy of the Internal order and all the materials available on records with IBBI in compliance of the regulation 10B (1) of INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSPECTION AND INVESTIGATION) REGULATIONS, 2017 12. Copy of the Internal records based on which Orders passed as mandated under regulation 10B (2) of INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSPECTION AND INVESTIGATION) REGULATIONS, 2017 13. Copy of the Internal records as mandated under regulation 10B (3) of INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSPECTION AND INVESTIGATION) REGULATIONS, 2017. 20.The copy of the internal documents in writing with IBBI which shows that the Board has taken into

account the following factors before issuance of SCN as mandated in regulation 12 (2) (a) the nature and seriousness of the alleged contraventions, including documentation of the category with reasons whether. 21. The copy of the internal documents in writing with IBBI which shows that the Board has taken into account the following factors before issuance of SCN as mandated in regulation 12 (2) (b) the consequences and impact of the alleged contravention, including - (i) unfair advantage gained by the notice as a result of the alleged contravention; 22. The copy of the internal documents in writing with IBBI which shows that the Board has taken into account the following factors before issuance of SCN as mandated in regulation 12 (2) (b) the consequences and impact of the alleged contravention, including - (ii) loss caused, or likely to be caused to [stakeholders] or any other person as a result of the alleged contravention; 23. The copy of the internal documents in writing with IBBI which shows that the Board has taken into account the following factors before issuance of SCN as mandated in regulation 12 (2) (b) the consequences and impact of the alleged contravention, including - (iii) the conduct of the noticee after the occurrence of it was deliberate, reckless or negligent on the part of the notice; In view of the foregoing, since the information as available by the Board has been provided by the CPIO Respondent, it does not require my interference. 24. The copy of the internal document in writing with IBBI which shows that before acceptance of compliant IBBI has ensured compliance of the Clause 2 of the INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (GRIEVANCE AND COMPLAINT HANDLING PROCEDURE) REGULATIONS, 2017 as regards (a) "aggrieved", (g) "complainant", (h) "grievance" & (j) "stakeholder" 25. The copy of the internal documents in writing with IBBI which shows that before acceptance of compliant IBBI has ensured compliance of the Clause 3(2) (i),(ii),(iii),(iv),(v),(vi), & (vii) of the INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (GRIEVANCE AND COMPLAINT HANDLING PROCEDURE) REGULATIONS, 2017. 26. The copy of the internal document in writing with IBBI which shows that before acceptance of compliant IBBI has ensured compliance of the Clause 3(4) of the INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (GRIEVANCE AND COMPLAINT HANDLING PROCEDURE) REGULATIONS, 2017. 27. The copy of the internal document in writing with IBBI which shows that before acceptance of compliant IBBI has ensured compliance of the Clause 7(1) of the INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (GRIEVANCE AND COMPLAINT HANDLING PROCEDURE) REGULATIONS, 2017. 28. The copy of the internal document in writing with IBBI which shows that before acceptance of compliant IBBI has ensured compliance of the Clause 7(3) of the INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (GRIEVANCE AND COMPLAINT HANDLING PROCEDURE) REGULATIONS, 2017. 29. The copy of the internal document in writing with IBBI which shows that before acceptance of compliant IBBI has ensured compliance of the Clause 7(7) of the INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (GRIEVANCE AND COMPLAINT HANDLING PROCEDURE) REGULATIONS, 2017. 30. The copy of the internal document in writing with IBBI which shows that before acceptance of compliant IBBI has ensured compliance of the Clause 7(8) of the INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (GRIEVANCE AND COMPLAINT HANDLING PROCEDURE) REGULATIONS, 2017."

7. With regard to query numbered 11, 12, & 13 of the impugned RTI Appeal, the information is not available with the Board while the documents pertaining to query no. 20, 21, 22 & 23 has been provided to the Appellant by the CPIO Respondent *vide* **RTI No. ISBBI/R/E/25/00142** sent on 20 May 2025. With regard to query nos. 24, 25, 26, 27, 28, 29 & 30 of the impugned RTI Appeal, I note that the information sought is in the nature of the clarification which is not covered with the ambit of Section 2(f) of the RTI Act. In *A.K. Vasudev Vs. CPIO, M/o Consumer Affairs, Food & Public Distribution, New Delhi* (CIC/DOCAF/A/2018/137220) (decided on 11.02.2020), the Hon'ble CIC observed the following, "the Commission observes that at the outset it is clarified that under the provisions of the RTI Act 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 provide clarification or furnish replies to hypothetical questions.” In view of the foregoing, since the information as available with the CPIO Respondent has been provided to the Appellant in the previous RTI reply *vide* **RTI No. ISBBI/R/E/25/00142** sent on 20 May 2025, it does not require my interference.

8. The Appeal is, accordingly, disposed of.

Sd/-
(Kulwant Singh)
First Appellate Authority

Copy to:

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