

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

7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market,  
Connaught Circle, New Delhi- 110 001

**Dated: 16<sup>th</sup> January, 2025**

**Order under section 19 of the Right to Information Act, 2005 (RTI Act)**

**IN THE MATTER OF**

**Kamal Deep Tyagi**

... Appellant

Vs.

**Central Public Information Officer**

The Insolvency and Bankruptcy Board of India

7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market,

Connaught Circle, New Delhi - 110 001.

... Respondent

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1. The Appellant has also earlier filed an Appeal, challenging that the Respondent has not provided the information within 30 days as per the RTI Act. Same was disposed by me on 3<sup>rd</sup> January 2025. However, now the Appellant has challenged the reply on its merits and has submitted the following –

Sl. No.	Information sought in RTI	RTI Reply	Submissions in Appeal
1.	What is the forum/ process for appeals against the order(s) of the Board for Insolvency Professional?	The information sought is in the nature of seeking opinion/ clarification which is not covered under the definition of 'information' under section 2(f) of the RTI Act, 2005 and therefore cannot be provided	This reply has to be given as per IB Code, 2016 and as per provisions of Law. If there is Law for appeal, then the same has to be replied properly. This is not seeking opinion or clarification rather the information provider has to give reply in accordance with Law, hence the reply given is of no relevance and need to be replied a fresh.

2.	As per Bankruptcy Law Reform Committee report- the wrongs/ offences will be specified in the Code along with those over which the regulator have quasi-judicial power and those which will be adjudicated in the Court. Kindly provide detailed guidelines/ Regulations for the same.	The Insolvency and Bankruptcy Code, 2016 may be referred to in this regard.	In the reply given, it is suggested to refer IB Code, 2016 whereas in the Code, there is no such provision. The IBBI has to reply whether any guideline or regulation exist or not. No reply has been given and the IBBI has to give reply clearly.
3.	As per Bankruptcy Law Reform Committee report- The board will make the framework for penalties that will be applicable for each of offence. Kindly provide its details.	No such guidelines as sought is framed by IBBI.	
4.	As per section 196(2) (h) of the IB Code,2016- the Board will make by laws to be adopted by the Insolvency Professional Agency which will prescribe the grounds on which penalties may be levied upon the members of Insolvency Professional Agencies and the manner thereof. Please provide those bylaws	The Byelaws of Insolvency Professional Agencies is provided under the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 which is available on website of IBBI and accessible at <a href="https://ibbi.gov.in//legal-framework/updated">https://ibbi.gov.in//legal-framework/updated</a> .	The question is asked as per Section 196(2)(h) of the IB Code, 2016. The reply refers the IPA Regulations wherein there is no provision matching with question. The IBBI has to reply as per question asked. The question is whether any bye-Laws has been made for the IPA prescribing the grounds on which penalties may be levied upon the members of IPA.
5.	Section 196(2)(j) of IB Code prescribes that the IBBI has to prepare	The Insolvency and Bankruptcy Board of India (Model Bye-Laws and	The question is asked as per Section 196(2)(j) of the IB

	<p>grounds under which the Insolvency Professionals may be expelled from the membership of the Insolvency Professional Agencies. Kindly provide those grounds.</p>	<p>Governing Board of Insolvency Professional Agencies) Regulations, 2016 may be referred to which is available on website of IBBI and accessible at <a href="https://ibbi.gov.in//legal-framework/updated">https://ibbi.gov.in//legal-framework/updated</a>.</p>	<p>Code, 2016. The reply refers the IPA Regulations wherein there is no provision matching with question. The IBBI has to reply as per question asked. The question is the grounds prepared by the IBBI under which the Insolvency Professional may be expelled. The IBBI has to give proper reply.</p>
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2. I have carefully examined the application, the response of the Respondent and the Appeal 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.
3. With regard to query (1), the Appellant wants to know the forum/ process for appeals against the order(s) of the Board for Insolvency Professional. The answer to the query can easily be inferred from bare perusal of the Insolvency and Bankruptcy Code, 2016 (Code). The copy of the Code is already available in public domain. The Respondent cannot be expected to resolve such queries of the Appellants with regard to the provisions of the Code. The right of the Appellant is limited to the scope of ‘information’ under the RTI Act. 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.”*

4. With regard to query (2), (3), (4) and (5), the Appellant wants to know exact section / regulation / guideline against the observations made in the Bankruptcy Law Reform Committee report and section 196. It is reiterated that the Code, the amendments made to the Code, the Regulations, and Guidelines as issued by the IBBI are all in public domain. The Appellant can peruse the same. The Respondent is not bound to respond to such inquisitions under the RTI Act. In this regard, it is also relevant to refer to the Order dated April 21, 2006, of the Hon’ble CIC in the matter *Dr. D.V. Rao Vs. Shri Yashwant Singh & Anr*, wherein it was observed that: *“the RTI Act does not cast on the public authority any obligation to answer queries in which a petitioner attempts to elicit answers to his questions with prefixes, such as, ‘why’, ‘what’, ‘when’ and ‘whether’. The petitioner’s right extends only to seeking information as defined in section 2 (f) either by pinpointing the file, document, paper or record, etc., or by mentioning the type of information as may be available with the specified public authority.”*
5. The information requested is already available in public domain. The Respondent cannot be expected to peruse these and provide replies to Appellant. It is relevant to refer to the decision of Hon’ble CIC in *Shri Girish Prasad Gupta vs. CPIO, Indian Oil Corporation* (decided on March 30, 2015), wherein it has held that: *“.., we note that the information that is placed by a public authority on its website is already available in the public domain and is, therefore, not under the control of the public authority. It can be obtained by any interested person by consulting the relevant website. If public authorities are required to provide hard copies of the information, already available on their website as part of suo motu disclosure, such suo motu disclosure will become futile, because the very purpose of such disclosure is to ensure that applicants do not have to approach public authorities to get a good deal of information already placed by them on their website.”*

**Sd/**  
**(Kulwant Singh)**  
First Appellate Authority

**Copy to:**

1. Appellant, Kamal Deep Tyagi.
2. CPIO, The Insolvency and Bankruptcy Board of India, 7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market, Connaught Circle, New Delhi- 110 001.