

**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: 22nd July, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00028

IN THE MATTER OF

CA Rajat Kumar Mehra

... 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 23rd June 2022, challenging the communication of the Respondent dated 15th June 2022 with regard to his RTI Application No. ISBBI/R/E/22/00146 dated 07th June 2022 filed under the Right to Information Act, 2005 (RTI Act). In the RTI Application, the Appellant has in the context of Circular No. EXAM-13016/1/2022-IBBI dated 06th June 2022 *inter-alia* requested for the following –
“....
 1. *Kindly provide certified copies of records of the entire process of the alleged improvement.*
 2. *Kindly provide certified copies of records and representations reaching you of difficulty faced by aspirants or stakeholders.*
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 5. *Kindly provide a copy of decision, agenda and transcripts of the Governing Board, advisory committee, executive committee or other committee meeting in the matter, if any.*
 6. *Kindly provide a copy of alleged regulations made under Valuation Rules as mentioned in the last and 5th paragraph of the aforesaid Circular along with copy of publication of the same in the official gazette, if published.*
 7. *Kindly provide records of competence of the General Manager or any other authority to frame and follow alleged regulations under the Valuation Rules and enforce the same on Test administrators, aspirants and RVOs....”*
2. Aggrieved by the response of the Respondent, the Appellant has broadly submitted the following: –
 - a. With regard to query (1),
 - (i) the Respondent has not provided certified copies as sought by Appellant,
 - (ii) the reply did not contain Annexure I,
 - (iii) the board note without serial number casts doubt on authenticity of the information,

- (iv) the certified copy of the entire process was sought which should have included, minutes of meeting of the Board, copy of approval of governing board, minutes of the examination committee, etc..
 - b. With regard to query (2),
 - (i) the requested information is not the Board Note,
 - (ii) it is again requested to provide certified copies of representations received pertaining to difficulty faced by aspirants and stakeholders.
 - c. With regard to query (5),
 - (i) the Board Note is not a copy of decision, agenda, transcripts of governing board, and
 - (ii) sought information to be provided.
 - d. With regard to query (6), complete reply has not been provided.
 - e. With regard to query (7), the link provided is inaccessible and therefore, the information may be e-mailed to Appellant.
 - f. The information given by Respondent is incorrect, *mala fide*, vague, misleading and bad in law.
3. The Appellant also requested for opportunity of personal hearing. Considering several contentions raised in the Appeal in respect of response on merits, the Appellant was given opportunity of personal hearing which he availed on 19th July, 2022 through virtual mode. He also requested for copy of comments of the Respondent which was shared with him before the hearing. During hearing, the Appellant made submissions on the lines of written submissions made in Appeal and vehemently argued that Respondent has decided his information request without applying mind and has acted against law and practice relating to RTI Act. The Appellant pithily objected to the statements in comments of the Respondent that the Appellant displays an incomplete knowledge of the provisions of the laws and the RTI Act and that the Appellant has been asking for the question/answer data bank to gain an undue advantage. He claimed that he is entitled to know the correct answers to questions asked in examination conducted by IBBI. He was also given liberty to make additional written submissions, if he so chooses, which he declined.
 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.*"
 5. 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.

6. It is also clear that the “right to information” under section 3 of the RTI Act is circumscribed by RTI Act itself as the right is limited within scope of ‘information’ as defined under section 2(f) and is subject to other provisions including those under section 8 of the Act. 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. In the instant case, the Appellant has requested for (i) certified copies of entire process of the alleged improvement, (ii) certified copies of records and representations of all aspirants / stakeholders, and (iii) copy of decision, agenda and transcripts of the governing board, advisory committee, executive committee or other committee meeting in the context of Circular No. No. EXAM-13016/1/2022-IBBI dated 06th June 2022. The Respondent has provided the Appellant with a copy of the Board Note as available on record. However, the copy provided to the Appellant is not a certified copy of the Board Note. Section 2(j)(ii) of the RTI Act provides the right to the RTI applicant to seek certified copies of documents and records from a public authority. Accordingly, the Respondent should have provided the Appellant with a certified copy of the Board Note. With respect to certified copies of records and representations reaching IBBI of difficulty faced by aspirants or stakeholders, the Respondent has provided the information which is available on record. Accordingly, no further information can be provided in this regard. Also, I note that the minutes of the meeting are yet to be confirmed and will be placed in the next meeting of the Governing Board for confirmation. Accordingly, until the minutes are finalised, no further information could have been provided by the Respondent in the context of the said Board Note. However, as the copy of the Board Note provided is not a certified copy, the Respondent is directed to provide the Appellant with certified copy of the said Board Note within 10 days of receipt of this Order.
8. Further, the Appellant has also requested for a copy of alleged regulations made under Valuation Rules as mentioned in the last and 5th paragraph of the aforesaid Circular along with copy of publication of the same in the official gazette. The Respondent has stated that the said Circular was issued in exercise of powers under the Companies (Registered Valuers and Valuation) Rules, 2017. It is matter of common understanding that IBBI does not issue any Regulations under Valuation Rules. Accordingly, it is not clear as to which Regulation is the Appellant referring to. To this extent the information request is vague and the request cannot be acceded to.
9. The Appellant has also requested for records of competence of the General Manager or any other authority to frame and follow alleged regulations under the Valuation Rules and enforce

the same on Test administrators, aspirants and RVOs. The Respondent has provided the following link to access the information - https://ibbi.gov.in/webadmin/pdf/legalframework/2017/Oct/179825_2017-10-30%2016:41:35.pdf . However, the Appellant has submitted that the said link is not accessible. Accordingly, in the interest of justice, the Respondent is requested to provide the document available in the link to the Appellant within 10 days of receipt of this Order.

10. In view of the above, the Appeal is disposed of accordingly.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

1. Appellant, CA Rajat Kumar Mehra.
2. CPIO, The Insolvency and Bankruptcy Board of India, 2nd Floor, Jeevan Vihar Building, Sansad Marg, New Delhi - 110 001.