

**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/2018/60005 (F. No. IBBI/RA/2017-18/52)
Dated: April 19, 2018

Arising out of Order dated April 12, 2018 under RTI Request No.
ISBBI/R/2018/80006

IN THE MATTER OF

Mr. V Viswanathan

████████████████████
████████████████████

..... Appellant

Versus

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

..... Respondent

ORDER

1. The present Appeal No. ISBBI/A/2018/60005 dated April 19, 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. V Viswanathan against the order of the CPIO, Ms. Anita Kulshrestha, Insolvency and Bankruptcy Board of India with respect to his RTI Request No. ISBBI/R/2018/80006.
2. On a detailed perusal of the RTI Application of Mr. V Viswanathan and his subsequent RTI Appeal it is observed that the appellant seeks the following information from the Insolvency and Bankruptcy Board of India: -
 - (1) "I Want to know from the appellate if there is alleged Crony capitalism involved and is there a change that there is corruption allegation against the board to support the big 4 firms.

(2) I want to the notice of the Appellate authority the following case: The bankruptcy regulator has slapped a penalty and issued a show cause notice to the resolution professional of [REDACTED], who is backed by consulting [REDACTED] for neglecting the claims made by operational creditors.”

3. The CPIO, Insolvency and Bankruptcy Board of India had disposed of the RTI Application on April 12, 2018 stating that: -
“As per Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations 2016 read with Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018, only an individual is eligible for registration as Insolvency Professional. You may access both regulations available under Legal Framework tab on the website of Insolvency and Bankruptcy Board of India www.ibbi.gov.in”.
4. The appellant in the present appeal has averred that “the Respondent has provided a very very general reply and no specific reply has been received why only BIG 4 foreign Firms, [REDACTED], [REDACTED] and [REDACTED] are appointed”.
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 *Thalappalam Ser. Coop. Bank Ltd. & Ors, v. State of Kerala & Ors.* (Civil Appeal No. 9017 of 2013), while interpreting the term “information” enshrined in Section 2(f) of the RTI Act, 2005 has observed that citizens have a right to get information, but can have access only to the information “held” and under the “control of public authorities”, with limitations. If the information is not statutorily accessible by a public authority, as defined in Section 2(h) of the Act, evidently, that information will not be under the “control of the public authority”.
7. 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.*

8. The Hon'ble CIC in the matter of *Sh. Alok Shukla vs. CPIO, SEBI* (File No. CIC/SM/A/2012/001838), 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.*
9. In view of the above, the information sought by the appellant under the points 1 and 2 are neither ‘held’ by the Insolvency and Bankruptcy Board of India which is a public authority, nor such information is under its ‘control’. The information solicited by the appellant amounts to obtaining the opinion and advice of the Insolvency and Bankruptcy Board of India which does not fall 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

1. Mr. V Viswanathan
[REDACTED]
[REDACTED]
2. CPIO, Insolvency and Bankruptcy Board of India
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