

**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: 4th March, 2022

RTI Appeal Registration No. ISBBI/A/E/22/00005

IN THE MATTER OF

Rajansinh L Zala

... 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 present Appeal dated 5th February 2022, challenging the communication of the Respondent dated 5th January 2022 with regard to his RTI Application No. ISBBI/R/E/21/00230 dated 27th December 2021 filed under the Right to Information Act, 2005 (RTI Act). The Appellant while raising his 9 queries had stated that he has received the copy of e-mail by IBBI on 27th April 2021 to Sardar Patel University (SPU) in regard to recognition of examination conducted for postgraduate course as equivalent to valuation examination. However, he has alleged that he is directly affected by the decision and therefore he is not a third party. Also, the communication between SPU and IBBI is not for any private purpose or commercial purpose.
2. In the Appeal, the Appellant has submitted that: *“It is requested to direct to provide all information sought in RTI, as it is an administrative decision taken by authority and affecting me personally with respect to my application, as per RTI Act Authority is bound to public such decision and provide information to affected parties and there is no competitive position is being affected as such.”*
3. 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. Before dealing with contentions of the Appellant, I deem it appropriate to briefly state the scope of information and information requests under the RTI Act. It is pertinent to mention that scope of information disclosure under the RTI Act is circumscribed by RTI Act itself. 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 and which can be disclosed subject to exemptions under section 8(1)(a) to 8(1)(j) 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.
4. I note that the Appellant has not challenged the decision of the CPIO on its merits with respect to any specific query raised in his Application, rather has made a general submission that the decision of IBBI was an administrative decision which has affected him personally, and there is no competitive position being affected as such. It is further noted that one of the requests of the Appellant was as to the name and designation of the competent

authority who has taken decision with regard to the decision about recognition of examination conducted by SPU. In my view, such information is personal information about the officer of the IBBI and the disclosure of the same would cause unwarranted invasion of the privacy of the officer and it is, thus, exempted under section 8(1)(j) of the RTI Act. I, therefore, find that no fault can be found with response of the Respondent with regard to such inquisitions of the Appellant.

5. Another requisition of the Appellant is about the date on which such a decision of the competent authority in IBBI was communicated to all RVOs. To this, the Respondent has replied to the Appellant that the information sought is exempted under section 8(1)(d) of the RTI Act, 2005 as it would affect the competitive position of third party. In so far as scope of this exemption under section 8(1)(d) is concerned, the Respondent would be right to refuse to give information, disclosure of which would harm the competitive position of a third party, unless he is satisfied that larger public interest warrants the disclosure of such information. In the instant case, the Respondent has not given any reason or justification for invoking section 8(1)(d) of RTI Act. Further, whether the information is relating to '*commercial confidence*' or '*trade secrets or intellectual property*? and how does he think that the disclosure of such information would harm the competitive position of any third party? It is also not justified as to how the information is in fiduciary relationship. It is obviously denial without any specific reason. Having observed this, I deem it fit to deal with this request on merits in the interests of the right to information and scope of information disclosures under the RTI Act. This decision relates to eligibility of SPU exclusively and nothing exists in that regard to be shared with all RVOs. Thus, providing the date of communication of decision with regard to SPU to all RVOs is out of context. If the information does not exist it cannot be held for making disclosure to a RTI applicant. I, accordingly, reject the claim of the Applicant.
6. It is noted from the response of the Respondent that the Appellant has been provided with information that is held and that can be provided. The information that cannot be shared has also been dealt with in Order Number ISBBI/A/E/21/00030 dated 08th December 2021 and ISBBI/A/E/21/00032 dated 14th December 2021. For example, the Appellant has requested for copy of file noting made by the competent authority while examining representation of SPU earlier also as decided in the said orders. I reiterate that that the basis/reasons on which IBBI has come to a conclusion with respect to SPU, do contain information which is confidential to the SPU and the disclosure of the same to a third party i.e. the Appellant may harm the competitive position of the said University and this Respondent must be cautious of the same. Therefore, the disclosure of the basis/reasons on the basis of which IBBI has concluded with respect to SPU is exempted under section 8(1)(d) of the Act. Also, the Appellant has failed to establish how a larger public interest is involved warranting disclosure of requested information. Accordingly, in my view, the information as requested by the Appellant cannot be disclosed to him.
7. I further note that in the garb of RTI Application, the Appellant has sought to contest the issues already decided in Order Number ISBBI/A/E/21/00030 dated 08th December 2021 and ISBBI/A/E/21/00032 dated 14th December 2021 raising similar information request. In this regard, it may be relevant to note that the Hon'ble CIC in *Mr. S. P. Goyal, Vs. Mr. V. C. Ramachandran*, Decision No. CIC/SG/C/2011/000760/Interim Complaint No. CIC/SG/C/2011/000760 (order dated 17th January 2012) observed as follows:

“...though the right to information is a fundamental right of the citizens, it cannot be used indiscriminately so as to adversely affect the functioning of a public authority and divert its resources

disproportionately to fulfill the demands of one individual.....The RTI Act harmonizes the various requirements of democracy. An unreasonable demand by an individual of the resources of the State to pursue his own whims does not sub-serve the requirements of democracy. The Commission is also conscious of the fact that it is financed by the poorest man in this country who may be starving to death. The Complainant by repeatedly filing similar RTI applications and appeals with the Respondent public authority and the Commission is wasting public resources.”

8. In the facts and circumstances of this case, it is clear that the Appellant is in habit of raising same information request repeatedly which will not serve any public interest. It also appears that the Appellant is trying to resolve his personal grievance regarding recognition of examinations conducted by SPU, under the garb of information request under the RTI Act. Obviously, the RTI Act, 2005 cannot be used for such purposes. A grievance cannot be redressed under the RTI Act. In *Prem Prakash Kumar v NFL, Panipat*, (Decision no. 246/IC/(A)/2006, F.No. CIC/MA/A/2006/00374 & 375 dated 28 August 2006) the appellant sought documents and specific comments of CPIO on 89 queries. Hon’ble CIC observed that, in fact, the nature of queries and the information sought are such that the information seeker would never be satisfied because the promotion of self-interest, rather than public interest, was dominant, as the appellant had sought redressal of grievances. 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:

“...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.”

9. I, therefore, find no reason to interfere with the response of the CPIO.
10. Accordingly, the appeal is disposed of.

Sd/
(Santosh Kumar Shukla)
First Appellate Authority

Copy to:

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