

**BEFORE THE APPELLATE AUTHORITY
(Under the Right to Information Act, 2005)
SECURITIES AND EXCHANGE BOARD OF INDIA**

Appeal No. 6146 of 2024

Prakash Pandey	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application (Reg. No. SEBIH/R/P/24/00166) dated July 16, 2024 (received by SEBI on July 20, 2024) under the Right to Information Act, 2005 ("**RTI Act**"). The respondent, by a letter dated August 13, 2024, responded to the application filed by the appellant. The appellant filed an appeal dated August 30, 2024 (received by the Office of Appellate Authority on September 25, 2024). I have perused 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.
2. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant, in his appeal, has raised dissatisfaction only with respect to the replies to request nos. 1, 2 and 4 (pertaining to Vibgyor Group of companies) of his application and request nos. 1, 2 and 3 (pertaining to Rhine and Raavi Credits & Holdings Limited) of his application.
3. **Request Nos. 1, 2 and 4 of the application (regarding Vibgyor Group of companies):** - The appellant, vide his request nos. 1, 2 and 4 of the application dated July 16, 2024, *inter alia*, sought information regarding refund of money with respect to the matter of M/s Vibgyor group of companies (VAIL).
4. **Reply of the Respondent** - The respondent, in response to the aforesaid queries, informed that the information sought are in the nature of seeking clarification/opinion. Accordingly, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act, 2005. However, the respondent informed the appellant that SEBI (vide orders dated February 20, 2014 and March 9, 2018) has, *inter alia*, directed Vibgyor Allied Infrastructure Limited and its directors/promoters to refund the money, jointly and severally, to investors within a period of three months from the date of order. As the

company and its directors failed to comply with directions issued vide abovementioned SEBI orders, recovery proceedings have been initiated in the matter. Further, the respondent informed that meanwhile, the Hon'ble Calcutta High Court vide its order dated February 15, 2017 has appointed Hon'ble Justice Sailendra Prasad Talukdar as 'One Man Committee' which is looking after the process of making refunds to investors in the matter of Vibgyor group of companies. Additionally, the respondent informed that the detailed information on action taken, progress and present status in this matter is available on the website of the Committee. The respondent provided the relevant links to access the same.

5. I have perused the requests and the response provided thereto. On consideration, I concur with the response of the respondent that the said requests are in the nature of seeking clarification/confirmation from the respondent. I find that the said requests cannot be construed as seeking 'information' as defined under section 2(f) of the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon'ble Central Information Commission (hereinafter referred to as "CIC") observed that *"7. The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant are in the nature of seeking explanation/opinion/advice/confirmation/clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/opinions/advices can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him"* Accordingly, I do not find any deficiency in the response. Notwithstanding the above, I note that the respondent has provided information regarding orders passed by SEBI against Vibgyor Allied Infrastructure Limited and its directors/promoters. Further, the respondent informed the appellant regarding order dated February 15, 2017 of the Hon'ble Calcutta High Court, whereby Hon'ble Justice Sailendra Prasad Talukdar was appointed as 'One Man Committee', which is looking after the process of making refunds to investors in the matter of Vibgyor group of companies. I note that the respondent has also provided the relevant link to access information regarding action taken, progress and present status in the said matter, as available on the website of the aforesaid Committee.

6. **Request Nos. 1, 2 and 3 of the application (regarding Rhine and Raavi Credits & Holdings Limited):** The appellant, vide his request nos. 1, 2 and 3 of the application dated July 16, 2024, *inter alia*, sought following information regarding the matter of Rhine and Raavi Credits & Holdings Limited.

1. Administrator were appointed by SEBI, the work done by them was not disclosed, a lot of property has been seized, please tell about its auction.

2. When the refund of payment will be made to the investors.

3. Provide copy of the Award passed by Patiala High court in CC no. 10/2017 and the current status of the proceedings till date.

7. **Reply of the Respondent** – The respondent, in response to request no. 1 and 2 of the application, informed that the information sought are in the nature of seeking clarification/opinion. Accordingly, the same cannot be construed as “information” as defined u/s 2(f) of the RTI Act, 2005.

In response to request no. 3, the respondent informed that the information sought is not available with SEBI. However, without prejudice to above, the court proceedings information or status can be checked from respective Hon’ble court’s website

Further, the respondent informed that SEBI initiated Recovery Proceedings vide recovery certificate no. 849 of 2015 dated 31.12.2015 in the matter of Rhine and Raavi Credits & Holdings Limited for non- compliance of SEBI's order no. WTM/PS/92/NRO/MAR/2015 dated March 27, 2015. Bank accounts and Demat accounts of the defaulters were attached vide attachment proceeding nos. 2421 & 2422 of 2015 dated 31.12.2015. Additionally, the respondent informed that subsequently, SEBI issued prohibitory order dated 11.06.2019 prohibiting the defaulters from transferring, disposing of, alienating or charging in respect of the property (ies) mentioned in the prohibitory order.

8. I have perused the requests and the response provided thereto. With respect to request nos. 1 and 2 of the application pertaining to Rhine and Raavi Credits & Holdings Limited, I concur with the respondent that the queries are more in the nature of seeking clarification/confirmation/explanation from the respondent. I note that the respondent is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. In this context, I once again place reliance on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein Hon’ble CIC observed that “7. *The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant*

are in the nature of seeking explanation/opinion/advice/confirmation/clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/opinions/advice can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him.” In view of these observations, I find that the said queries cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent.

9. With respect to request no. 3 of the application pertaining to Rhine and Raavi Credits & Holdings Limited, I note that the respondent has categorically stated that the requested information is not available with SEBI. I note that the respondent can only provide information that is available in the records. In this context, I note that the Hon’ble Supreme Court of India in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011) held that “*The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.*” Accordingly, I do not find any deficiency in the response of the respondent.
10. Notwithstanding the above, I note that the respondent has provided information regarding Recovery Proceedings initiated and Prohibitory Order passed by SEBI in the matter of Rhine and Raavi Credits & Holdings Limited.
11. Further, I note that the appellant in his appeal has sought further information pertaining to his application. As held by the Hon’ble Central Information Commission in *Harish Prasad Divedi vs. Bharat Petroleum Corporation Limited* (decided on January 28, 2014), an information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage. Accordingly, I find that the said submissions do not warrant consideration at this stage.

12. In view of the above observations, I find that there is no need to interfere with the decision of the respondent. The Appeal is accordingly dismissed.

Place: Mumbai

Date: October 03, 2024

RUCHI CHOJER

**APPELLATE AUTHORITY UNDER THE RTI ACT
SECURITIES AND EXCHANGE BOARD OF INDIA**