

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

Appeal No. 6109 of 2024

Venkatasubramanian B	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated April 26, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 ("**RTI Act**"). The respondent, by a letter dated May 17, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00175) dated August 12, 2024.
2. I note that under Section 19(1) of the RTI Act, an aggrieved person may prefer the first appeal within thirty days from the receipt of the response from the CPIO of the concerned public authority. In the instant case, the impugned response from the respondent is dated May 17, 2024. The appellant, therefore, should have filed the first appeal on or before expiry of thirty days from the date of receipt of the said response. As noted above, the appellant's first appeal was received on August 12, 2024. The first appeal has been made after the last date permissible under the RTI Act. The appellant neither made a request for condoning the said delay in filing the appeal nor made any submission explaining the reasons which caused the delay. Considering the absence of a request for condoning the delay and any valid reason that prevented the appellant from filing the appeal in time, I consider this appeal as time barred and hence, liable to be dismissed on that count.
3. Notwithstanding the above observation, I am considering the appeal on merit. I have perused the application and the appeal and find that the matter can be decided based on the material available on record.
4. **Ground of appeal** - The appellant filed the appeal on the ground that he was refused access to information requested.

5. **Request nos. 1, 4, 6, 7, 10, 11, 18, 20, 21, 29, 31, 32, 36, 37 of the application** - The appellant, vide application dated April 26, 2024, sought the following information:

“1. What is the procedure for listing a company in nse or bse “

“4. Do companies report their hiring data in the stock exchanges of india”

“6. are there any manufacturing ipo done or any existing funds in nse or bse

7. how can sme or startup raise money in market which are about to begin “

“10. can metro projects and national highways high debt projects be converted to equity in stock market by public participation

11. why sovereign gold bonds SGB not available for reservation or pre book like ipo “

“18. what happened to all stock exchanges opened after independence”

“20. what is sme ipo

21. why small and unknown companies are raising funds through ipo. What is the validation steps for ipo by sebi “

“29. is there any ipo for manufacturing sector”

“31. do psu banks have separate venture funds for startups.”

32. was there any ipo recently in manufacturing sector companies”

“36. why are many popular companies not listed on the stock exchange

37. when major share holder is the promoter of the company then what benefit do the promoters get by listing on stock exchanges”

6. **Reply of the Respondent** - The respondent, in response to the aforesaid requests, 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, with respect to request no. 1 of the application, the respondent also informed the appellant to refer to Stock Exchange’s (NSE and BSE) website for procedure of listing. Further, with respect to request nos. 6, 29 and 32, the respondent informed the appellant that there have been IPOs by companies in manufacturing sector and list of the companies which are listed are available on Stock Exchange’s website. The respondent also provided the website links of NSE and BSE. Additionally, with respect to request no. 7 and 20 of the application, the respondent informed that appellant to refer to “Chapter IX and Chapter X” of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018. The respondent provided the relevant links to access the said regulations.

7. I have perused the aforesaid requests and the response provided thereto. On consideration, I concur with the response of the respondent that the information sought is in the nature of seeking clarification/opinion from the respondent. It is understood that the respondent is not supposed to create information; or to interpret information; or to furnish clarification to the appellant under the ambit of the RTI Act. I find that the said request cannot be construed as seeking ‘information’ as defined under

section 2(f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or confirmation under 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.

8. **Request nos. 2, 12, 13, 15, 16, 17, 24, 25, 26, 30 and 34 of the application** - The appellant, vide application dated April 26, 2024, sought the following information:

"2. Are there any venture capital funds in nse or bse"
"12. api approved trading platforms"
13. algorithm trading approved trading platforms"
"15. authorized training partners to work in trading industry"
16. total security transaction tax revenue"
17. sebi press release and monthly and daily release are done in which platforms"
"24. how to break up elss funds invested in stock market"
25. are elss funds part of nse or bse"
26. what is the mutual funds settlement time"
"30. how do venture capitalists do ipo"
"34. how much revenue goes to sebi from stock market operations through regulation"

9. **Reply of the Respondent** - The respondent, in response to the aforesaid requests, informed that the queries are vague and not specific and 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 additionally informed the following to the appellant:

-With respect to request no. 2 of the application, the respondent informed that as a per the information available with Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), no SEBI registered 'Venture Capital Fund' is listed with NSE or BSE.

-With respect to requests no. 12, 13 and 15, the respondent informed that SEBI does not grant approval/registration of any trading platforms and training partners.

- With respect to request nos. 24, 25 and 26 of the application, the respondent informed the appellant to refer to SEBI (Mutual Funds) Regulations, 1996 and Master Circular on mutual funds. The respondent also provided the relevant links to access the same on SEBI website.

- With respect to request no. 30 of the application, the respondent informed the appellant to refer to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 for eligibility criteria, procedure for IPO and other relevant terms and conditions. The respondent provided the relevant link to access the said regulations.

- With respect to request no. 34, the respondent informed that in terms of powers conferred upon SEBI under Section 11 of the SEBI Act, 1992, SEBI has been collecting fees under various Regulations formulated under the said Act. The appellant provided the relevant path to access the said Act on SEBI website.

10. I have perused the aforesaid requests and the response provided thereto. I have perused the aforesaid request and the response provided thereto. I concur with the response of the respondent that the requests in the application are vague and not clear. It is an established law that the information sought for in order to be disclosable under the RTI Act, must be clear, specific and available in the records of the public authority. In this context, I note that in the matter of *Mr. T. V. Sundaresan vs. CPIO, Securities and Exchange Board of India* (Decision dated November 24, 2021), the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**") held: *"The framework of the RTI Act, 2005 expects that the information sought is specific and believed to be existing with the public authority in documented or material form as such; which can be shared with the appellant as per the provisions of the RTI Act. Answering to broad, multiple and general queries and presumptive documents that should have been generated as per the expectation of the appellant cannot be furnished under the provisions of the Act."*
11. Additionally, I concur with the response of the respondent that the said requests are also in the nature of seeking clarification/opinion from the respondent. I find that the said request cannot be construed as seeking 'information' as defined under section 2(f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or opinion under the RTI Act. In this context, once again 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 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.

12. **Request nos. 3, 5, 19, 23, 28, 33 and 35 of the application** - The appellant, vide application dated April 26, 2024, sought the following information:

"3. Can indians and NRI invest in foreign markets equity and foreign stock exchange funds like how canadian pension fund or saudi arabia invests in indian markets. What is the procedure for indians."

"5. Who are the top 10 major shareholders in sbi securities and sbi cards"

"19. can indians invest in stock markets outside india. Whats the procedure. Please give detailed steps"

"23. what is the income tax section for elss funds investment"

"28. sbi securities website has lot of issues. What is the procedure to raise complaints"

"33. does commerce ministry collect information of hiring data and publish to stock exchanges"

"35. how much income does nse and bse earned from the last one year of operations"

13. **Reply of the Respondent** – The respondent, in response to request nos. 3, 19, 23, 33 and 35 informed that the information sought do not pertain to SEBI. Hence the information sought is not available with SEBI. However, with respect to request no. 35 of the application, the respondent informed that information pertaining to financials of NSE and BSE are available on their respective websites.

Further, with respect to request no. 5 and 28 of the application, the respondent informed that SBI Securities Ltd. is an unlisted entity and accordingly the same does not fall under the purview of SEBI. Additionally, with respect to request no. 5, the respondent informed that as regards listed entities including SBI Cards and Payment Services Limited, there is no requirement under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, to disclose shareholding in the format of top 10 major shareholders'. Accordingly, the information sought by the applicant is not available with SEBI.

14. I have perused the aforesaid requests and the response provided thereto. I note that the respondent has categorically informed that the information sought 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.

15. **Request nos. 8, 9, 14, 22 and 27 of the application** - The appellant, vide application dated April 26, 2024, sought the following information:

"8. what is reit and invit

9. please provide list of reit and invit stock in the stock market"

"14. which website in nse and bse gives full data set of listed companies"

"22. what is the lock in period for elss funds"

"27. what is the app for sebi complaints"

16. **Reply of the Respondent** - The respondent, in response to request no. 8 of the application informed that the term "REIT" is defined under Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014. The respondent provided the relevant link to access the said regulations on SEBI website.

In response to request no. 9, the respondent informed that the list of Real Estate Investment Trusts and Infrastructure Investment Trusts registered with SEBI can be accessed on SEBI website. The respondent provided the relevant link to access the same.

In response to request no. 14, the respondent informed that the information pertaining to listed companies on NSE and BSE is available on their respective websites.

In response to request no. 22, the respondent informed that as per clause 2.6.1(A)(10) of Master Circular on Mutual Funds dated May 19, 2023, ELSS is an open ended equity linked saving scheme with a statutory lock in of 3 years and tax benefit. Further, the respondent informed that the said scheme

invests a minimum of 80% of total assets in equity & equity related instruments (in accordance with Equity Linked Saving Scheme, 2005 notified by Ministry of Finance).

In response to request no. 27, the respondent informed that SCORES mobile app is available on Android and IOS. The respondent also informed that the process of registration and lodging the compliant are same as done through SCORES website.

17. I have perused the aforesaid requests and the response provided thereto. On consideration, with respect to requests nos. 9, 14, 22 and 27 of the application, I find that the respondent has adequately addressed the aforesaid requests by providing the information available with him. However, I note that with respect to request no. 27, there is a typographical error in the reply of the respondent with respect to the website of SCORES. The correct address of SEBI SCORES website is www.scores.sebi.gov.in. The respondent may be guided by the same. Accordingly, no further intervention of this forum is warranted.
18. However, with respect to request no. 8 of the application, I note that the appellant has sought information regarding REIT and InvIT, I note that the respondent has only provided information regarding REIT. Hence, I find that the said request has not been adequately addressed. In my view, the respondent was obliged to ascertain availability of the requested information with SEBI and whether the same may be provided to the appellant in accordance with the provisions of the RTI Act. On consideration, I find that the aforesaid request has not been adequately addressed.
19. Considering the above observations, I remit the application to the respondent for *de novo* consideration of request no. 8 of the application and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.

Place: Mumbai

Date: September 9, 2024

RUCHI CHOJER

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