

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

Appeal No. 6111 of 2024

Sunny Agarwal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated July 21, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 12, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00177) dated August 13, 2024. I have carefully considered the application, the response and the appeal and find that the matter can be decided based on the material available on record.
2. **Request in the application** - The appellant, vide his application dated July 21, 2024 sought the following information:

“1) HOW DOES CIRCUIT LIMIT HELPED RETAIL INVESTOR? DID SEBI DID ANY STUDY ABOUT IT TILL DATE? IF YES, KINDLY SHARE THE INFORMATION

2) DID SEBI INTEND TO DO STUDY ABOUT PRICE FREEZE AND CIRCUIT WHO ARE BENEFITTED THE MOST?

3) WHAT ACTION DID SEBI TOOK ON COMPLAINT NUMBER SEBIE/WB23/000720/1 where broker admitted not following the sebi guidelines and there KYC documents guidelines. despite being a QSB broker and their chairman on SECONDARY Market advisory committee.

4) How did SEBI can instil confidence when rule breakers who did it openly like charging penalty from client for upfront margin shortages and not allowing bill to bill settlement are in the advisory committee of SEBI and framing the rules and advising the same?

5) what is SEBI doing about the benefit of offline client who have demat accounts with third party despite sending repeated email i have not received any reply or progress in this matter till date. i find most of the delivery instruction submitted by us took more than 2-3 hours reflect on broker system that for online execution and for off line execution mostly done EOD what is sebi is doing to ensure that such incidents dont happen as sebi intends to move to instant settlement how it be possible is such scenario?

6) when is sebi considering interoperability in demat account or is it even in agenda for the benefit of retail client?

7) Why SEBI give preferential treatment to PSU company rather than interest of Retail though SEBI mandate is to first look into the interest of Retail investor? yet I find SEBI excluded PSU shares from GSM list. what the reason for the same? are psu shares cannot be manipulated specially with such low public float shares?

8) is SEBI will ever consider in secondary market advisory only pure brooking firm which only have trading account no demat and bank account linkages as i find there is no such member in the team and they hardly know the issue and challenges faced no tech savvy and people who operate have demat, bank and trading through three separate entities?

9) further when is sebi will come out rule where depository allows it clients to do transfer online thru any number of pre notified accounts as I find NSDL allow only 6 accounts and cdsl allow only 4 accounts if you dont have digital signature base system.

10) how did sebi allow buyback letter of offer clearance where they mention if member broker registered say NSE can participant in buyback while buyback still there is no interoperability if broker is not registered in this case NCL cannot participate in buyback even though broker is registered with NSE as sebi till date has not allowed interoperability in buyback through stock exchange. How such information has cleared by sebi regularly?"

3. **Reply of the Respondent** - The respondent, in response to request nos. 1, 2, 4, 5, 6, 7, 8, 9 and 10 of the application, informed that the information sought are in the nature of seeking clarification/opinion/explanation. 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 of the application, the respondent informed that the query is vague and not specific. Accordingly, the same cannot be construed as "information" as defined u/s 2(f) of the RTI Act, 2005.

4. I have perused the aforesaid requests and the response provided thereto. With respect to request nos. 1, 2, 4, 5, 6, 7, 8, 9 and 10 of the application, I concur with the response of the respondent that the information sought are in the nature of seeking clarification/opinion/ explanation 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 explanation 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.

5. Further, with respect to request no. 3 of the application, I concur with the response of the respondent that the request is 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.”*
6. 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: September 9, 2024

RUCHI CHOJER

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