

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

Appeal No. 5665 of 2023

Gopal Rathi	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated March 30, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated April 27, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00088) dated May 04, 2023. 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. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. The appellant, in his appeal, *inter alia*, submitted that most of the information sought by him were denied. The appellant also requested to provide proper reply to his queries. In view of the submissions made by the appellant, I am dealing with the queries and the response provided thereto, in this order.
3. **Query number 1, 6 and 7-** The appellant, vide query numbers 1, 6 and 7, *inter alia*, sought the following information-
 1. List of all stock brokers registered with SEBI under section 12(2) of the SEBI Act, 1992 like Zerodha.
 6. How much foreign investment was made in the Indian stock market in the last 10 years (in any form whether mutual fund or equity).
 7. In the last 10 years how much money has gone back abroad from foreign investments including profits.

4. The respondent, in response to query number 1, informed that the details of stock brokers registered with SEBI, were available on the SEBI website, which is in the public domain. The respondent also provided the link/path for accessing the same. The respondent, in response to query numbers 6 and 7, informed that the information about investment made by Foreign Portfolio Investors (FPIs) every year till 2013-2014, is given on the website of SEBI. Further, the respondent informed that the data from the year 2014 onwards is available on the website of NSDL and CDSL. The respondent also provided the links for accessing the same.
5. I have perused the queries and the response provided thereto. With respect to query number 1, I note that information regarding registered stock brokers is available on the website of SEBI and the same can be accessed by the appellant. Further, the respondent cannot be expected to research and compile the information which is already available in the public domain and then provide the same to the appellant. In this context, I note that Hon'ble CIC in *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007) held that “..... *unless an information is exclusively held and controlled by a public authority, that information cannot be said to be an information accessible under the RTI Act. Inferentially it would mean that once a certain information is placed in the public domain accessible to the citizens either freely, or on payment of a pre-determined price, that information cannot be said to be 'held' or 'under the control of' the public authority and, thus would cease to be an information accessible under the RTI Act.*” Notwithstanding the same, I note that the respondent has guided the appellant to access the requested information. In view of the same, I find that query number 1 has been adequately addressed and no further intervention is warranted at this stage.
6. With respect to query numbers 6 and 7, I note that the queries are not specific and are also general in nature. I note that information regarding all foreign investment made in the Indian stock market/ gone back abroad from foreign investments in the last 10 years, is not available with SEBI. However, data pertaining to FPIs which is readily available in the records of SEBI, has already been provided by the respondent. On consideration, I find that the respondent has provided the information available with him and no further intervention is warranted at this stage.
7. **Query numbers 2, 3, 4, 9, 11 and 12- Queries in the application** –The appellant, vide query numbers 2, 3, 4, 9, 11 and 12, *inter alia*, sought the following information-

2. Whether the online trading platform of stock broker is checked by an official from SEBI or Exchanges before granting registration to ensure that no loophole exist in the said platform.

3. Whether Sunlight Broking LLP's mobile platform and online trading platform was also investigated. Further, the appellant sought the information regarding the officer who did the investigation (if any) and the report submitted with respect to the same.
4. Whether the fact is also verified that the trading platform provided by the stockbroker to the investor is working on real time basis.
9. How much market depth information is available for any equity share / option with the stock broker or any person associated with the exchange who can do trading like Zerodha which usually provides 20 depth data to its demat holder. Is there any way that one can really get more or even all the market depth information?
11. Whether the investors who have suffered losses in the colocation scam have been identified and whether the time frame for providing compensation has been ascertained.
12. CreditSights Fitch Group unit) published a Credit Report on Adani group on 23.08.2022. Whether the veracity of that report was investigated? Due to that report, any officer is liable to prevent or prevent the impact on the shares of Adani Group in the future?
8. The respondent, in response to the aforesaid queries, informed that the queries are in the nature of seeking explanation and accordingly, the same cannot be construed as seeking "information", as defined under section 2(f) of the RTI Act.
9. I have perused the queries and the response provided thereto. On consideration, I find that the queries are in the nature of seeking clarification/explanation from the respondent. In my opinion, the CPIO is not supposed to provide clarification; 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, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein the 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/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.” In view of these observations, I find that the said query 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.

10. **Query number 5-** The appellant, vide query number 5, *inter alia*, sought the following information-
 5. In the list given by SEBI, how may demat accounts have been opened with all the stock brokers mentioned in the list so far and are active.
11. The respondent, in response to the aforesaid query, informed that the information sought is not maintained by SEBI in the normal course of regulation of securities market. Hence, the same is not available with SEBI.
12. I have perused the query and the response provided thereto. I find that the respondent has categorically informed that the requested information is not maintained by SEBI in the normal course of regulation of securities market. I note that the requested information is not available on record. In this context, I note that the Hon’ble CIC, in the matter of *Lakshminarayanan R vs. SEBI* (order dated February 09, 2023) observed that “*Keeping in view the facts of the case, the Commission observed that the information sought by the appellant regarding Central Depository Services Ltd. was not maintained by the respondent authority in the normal course of regulation of securities market. It is an established law that the information sought for in order to be disclosable under the RTI Act, 2005 must be existent and available in the records..... In the instant case, the desired information was not available in the records of the respondent authority. The CPIO in his reply and written submissions has also sufficiently explained the reason for denial of information in the present case. Therefore, the denial is justified and upheld accordingly.*” In view of these observations, I do not find any deficiency in the response.
13. **Query numbers 8 and 10-** The appellant, vide query numbers 8 and 10, *inter alia*, sought the following information-
 8. Which officer was responsible for monitoring and controlling the changes in Adani's stock? Give his name and designation and if there was no such officer, then why SEBI did not do so, give the reason. The hard earned money of the investors got drowned. During the time when Adani's shares got effected by Hindenburg's report, tell the names of the holders of Damat

accounts and the number of shares sold by them. Also tell when did they buy these shares? Have the same demat account holders bought back the shares of Adani Group after a few days?

10. Is there any rule for stock brokers like zerodha that they cannot share the information of their demat holders doing intraday trading, with any other Big Bull or FII or DII?

14. The respondent, in response to the aforesaid queries, informed that the queries are not clear and specific and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of RTI Act.
15. I have perused the queries and the response provided thereto. I have perused the query and the response provided thereto. In my opinion, the queries of the appellant are presumptive in nature and also vague and not specific. 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 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.”* In view of these observation, I do not find any deficiency in the response provided by the respondent.
16. 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: June 05, 2023

B RAJENDRAN

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