

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

Appeal No. 6093 of 2024

Satish Kumar Kapoor	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application (Reg. No. SEBIH/R/P/24/00142) dated June 20, 2024 (received by SEBI on June 24, 2024) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 16, 2024, responded to the application filed by the appellant. The appellant filed an appeal on July 28, 2024 (received by the Office of Appellate Authority on July 28, 2024) by email. I note that as per the FAQs published on the website of Central Information Commission, a request under Section 6(1) of the RTI Act can be made in writing to the CPIO and it may also be filed electronically at <https://rtionline.gov.in>. Additionally, I also note that as per FAQs published on the website of Maharashtra State Information Commission, it is categorically mentioned that First Appeal cannot be filed through email. I note that there is no mandate of accepting applications/appeals by emails under the RTI Act. I note that the appellant was guided accordingly by the respondent vide his response dated July 16, 2024. Accordingly, vide email dated July 29, 2024, Office of Appellate Authority, *inter alia*, requested the appellant to be guided by the response of the respondent and accordingly file the appeal in writing to the First Appellate Authority (hereinafter referred to as “**FAA**”) or electronically at <https://rtionline.gov.in>. However, the appellant vide email dated July 29, 2024, *inter alia*, submitted that he is unable to file the appeal electronically due to wrong reference number provided in the reply of the respondent. In light of the submissions of the appellant, the appeal filed vide email of the appellant is being taken up for consideration and disposal today.
2. **Ground of appeal** - On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent.

3. **Request nos. 1 and 2 of the application** - The appellant, vide his request nos. 1 and 2 of the application dated June 20, 2024, sought the following information:

“1. Date on which these secured Convertible Debentures were converted and number of shares allotted. (photocopy of certificate enclosed), what happened to these debentures, pl complete information may pl be provided

2. Name of Nippon Denaro ispat was changed to ispat industries and then merged with JSW Steel. Proof of sending information to debentures holders/ shareholders sent by Company.”

4. **Reply of the respondent** - The respondent, in response to request nos. 1 and 2 of the application, informed that the information sought is not maintained by SEBI in normal course of regulation of securities market. Hence the same is not available with SEBI.

5. I have perused the aforesaid requests and the response provided thereto. 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. Further, on perusal of the the appeal, it appears that the appellant expects the respondent to collect the requested information from Stock Exchanges, companies, etc. and provide it to him. 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.

6. **Request no. 3 of the application** - The appellant, vide his request no. 3 of the application dated June 20, 2024, sought the following information:

“3. As per SEBI for how much time a company is supposed to keep all records, like signatures of investor, his address, transfer of shares etc, Copy of circular or law or any legal document showing this information.”

7. **Reply of the Respondent** - The respondent, in response to request no. 3 of the application, informed that information sought is not clear and specific. Accordingly, the same cannot be construed as seeking “information” as defined under section 2(f) of the RTI Act, 2005. However, the

respondent informed that SEBI guidelines w.r.t maintenance of KYC records, client records, etc. by SEBI registered intermediaries are prescribed in “Chapter 1- Trading” of SEBI Master Circular for Stock Exchanges and Clearing Corporations dated Oct 16, 2023, SEBI Master Circular for Stock Brokers dated May 22, 2024 and SEBI Master Circular on Know Your Client (KYC) norms for the securities market dated Oct 12, 2023. The respondent provided the relevant links to access the said circulars on SEBI website.

8. I have perused the request, the response provided thereto. On consideration, I agree with the response of the respondent that the request is not clear and 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 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.”* Accordingly, I do not find any deficiency in the response of the respondent. Notwithstanding the above, I note that the respondent has provided information regarding SEBI guidelines w.r.t maintenance of KYC records, client records, etc. by SEBI registered intermediaries.
9. **Request nos. 4 -7 of the application** - The appellant, vide his request nos. 4-7 of the application dated June 20, 2024, sought the following information:

“4. I have firm belief that management of JSW steel while merging ispat industry/Nippon Denero Concealed curtain facts about debentures and I requested SEBI to investigate, Pl give me copy of investigation report. If not investigated, Pl tell time by which investigation wil be completed.

5. Pl give me copy of portion of rule/ law which forbid SEBI to investigate my Complaint against JSW Steel in regards to merger of ispat industry/Nippon Denero Ispat

6. If reconciliation fails at stock exchange, what is duty of exchange/ SEBI to safe guard interest of investors –pl provide copy of relevant rule/ circular of law.

7. My button at SCORES for adding new complaint has been disabled, pl provided reason for same.”

10. **Reply of the Respondent** - The respondent, in response to request no. 3 of the application, informed that the information sought is in the nature of seeking clarification / action from SEBI. Hence, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act, 2005.
11. I have perused the application 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/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"* Accordingly, I do not find any deficiency in the response.
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: August 19, 2024

RUCHI CHOJER

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