

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

Appeal No. 5795 of 2023

Hetul S. Patel : Appellant
Vs
CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated September 05, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated September 13, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00194) dated September 15, 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. **Queries in the application** –The appellant, vide his application September 05, 2023, sought the following information:

“1. Are NRE /NRO Account Holders allowed for Security Lending and Borrowing (SLB) for Equity from Demat Holdings with Depository.

2. Can NRE /NRO Account Holders apply for the Rights as per offer letter by the company / RTA?

3. Can NRE /NRO Account Holder apply for the IPO under HNI, IND/Retail as well as want to know can apply for same IPO with Dual applications under NRO & NRE quota or Funding simultaneously with same PAN but Different DP ID or BO ID(ex NRE DP ID & NRO DP ID) NRE funds and NRO funds.”

3. The respondent, in response to query number 1, informed that the query is not clear and is in the nature of seeking clarification. Accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. In response to query number 2, the respondent advised the appellant to refer to the letter of offer of the issuer company. With respect to query number 3, the respondent informed that NRIs can refer to the Red Herring Prospectus of the issuer company going public to check their eligibility to invest in its IPO. With regard to the part of query number 3 regarding application of NRI in IPO, the respondent referred to Part A of Schedule VI of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 which deals with disclosures in offer document/ letter of offer. The respondent also provided the link for accessing the said regulations.

4. **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*, explained the queries raised in his application.
5. I have perused the aforesaid queries and the response provided thereto. On consideration, I find that the request is in the nature of seeking clarification/guidance/opinion from the respondent on various issues pertaining to NRE/NRO account holders interested in applying for IPO. In my opinion, the CPIO is not supposed to provide clarification/guidance/opinion; 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 queries cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act. Notwithstanding the same, I note that the respondent has guided the appellant to refer to the relevant regulations which are available on the website of SEBI. I also note that the same are in the public domain and accessible by the appellant himself.
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: October 04, 2023

ANAND BAIWAR

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