

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

Appeal No. 5757 of 2023

Naveen Kumar Jain	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 24, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 07, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00167) dated July 22, 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. **Requests in the application** –The appellant, vide his application dated June 24, 2023, made the following requests:

“For A Customer has taken Stock options services from SEBI registered advisory firm. The customer received the invoice on 25 May 2023 on behalf of his payment. According to invoices, the start date of services is 12 June 2023. The customer dropped a mail to the advisory firm on 30 May 2023 (past 5 days after receiving the invoice) for cancelling all the services which will start on 12 June 2023 and refund him. I want to know the below things.

- 1) Can the company promise any kind of profit?*
- 2) Can the customer not cancel the services which are not used by him (upcoming months like June, July, and August)?*
- 4) Has the customer, not any right to take back his money for the services which are not started/used by him, or do not want to continue?*
- 5) Can advisory firms start to give advice before KYC?*
- 6) Post the invoice, After How many days has the customer cancelled the services? like If any customer takes LIC policy, he can cancel within 15 days and can get refund.”*

3. The respondent, in response to the aforesaid requests, informed that the requests are in the nature of seeking clarification/opinion and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. However, the respondent guided the appellant to refer to clause 1.2 (ii)(a) of the SEBI Master Circular no. SEBI/HO/MIRSD-POD-2/P/CIR/2023/89 dated June 15,2023 and Annexure-A appurtenant to the said circular to be read with Regulation 19(1)(d) of the SEBI (Investment Advisers) Regulation, 2013 which details mandatory terms and conditions to be covered in agreement between client and investment advisers.
4. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent.
5. I have perused the requests and the response provided thereto. On consideration, I find that the requests are in the nature of seeking clarification/guidance/opinion from the respondent. 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 requests 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 and the master circular pertaining to Investment Advisers, which is available in the public domain. Accordingly, I do not find any deficiency in the response.
6. I note that the appellant, in his appeal, enclosed an excel sheet and sought further clarification on the master circular dated June 15, 2023. I note that the said requests have been made for the first time in this appeal. As held by the Hon’ble CIC in *Harish Prasad Divedi vs. Bharat Petroleum Corporation Limited* (decided

on January 28, 2014), an information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage. Accordingly, I find that the said requests do not warrant consideration at this stage.

7. Further, from the application, it appears that the appellant has grievance against an Investment Adviser. In this regard, the appellant may lodge complaint on the SCORES portal of SEBI, which enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online from the SCORES website. The link for accessing the same is provided below-

<https://www.scores.gov.in>

8. 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 21, 2023

B RAJENDRAN

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