

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

Appeal No. 5468 of 2022

Nitin Naresh	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated October 18, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 28, 2022, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/22/00631) dated October 28, 2022. 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, has not made any specific submission regarding the response provided by the respondent. In view of the same, I am dealing with the queries and the response provided thereto, in the following paragraphs.
3. **Query numbers 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12,15, 16, 17, 18, 24, 26, 34 and 35** –The appellant, vide query numbers 1, 2, 3 and 4, *inter alia*, sought information regarding date of incorporation and details of founders, shareholders, directors of OYO Parent company Oravel Stays Limited. The appellant also sought their share-holding pattern in Oravel Stays Limited. Vide query numbers 6 to 12, the appellant, *inter alia*, sought information regarding date when Oravel Stays Limited turned into a public limited company from private limited company and information about RA hospitality. The appellant also sought information regarding promoters of Oravel Stays Limited, owner/director/shareholder of RA Hospitality, funds given by RA hospitality to Oravel Stays Private Limited and Oravel Stays Limited and the reason for giving the funds. Vide query numbers 15 to 18, the appellant sought information regarding litigations and actions taken by statutory and regulatory authorities against Oravel Stays and its founders/ directors/ promoters. Vide query numbers 24 and 26, the appellant sought information regarding current

holding of RA hospitality in Oravel Stays and the nature of business, office address of RA Hospitality. Vide query number 34, the appellant sought information regarding shareholding of RA Hospitality Cayman Island in Oravel stays. The appellant, vide query number 35, sought the details of funds given to Oravel Stays by RA Hospitality to buy the shares in Oravel Stays.

4. The respondent, in response to the aforesaid queries, informed that Oravel Stays Limited is an unlisted company, proposing to make an Initial Public Offer and has filed its Draft Red Herring Prospectus (DRHP) with SEBI on September 30, 2021. Further, the said DRHP has been filed under the SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2018. The respondent informed that the information as sought under referred paras is contained in the said DRHP available for public on SEBI's website. The respondent also provided the web-link for accessing the DRHP.
5. I have perused the queries and the response provided thereto. I do not find any reason to disbelieve the response of the respondent that the information requested in the said queries, are already available on the website of SEBI and the same can be accessed by the public. On consideration, I find that the answer to such queries can be found out by the appellant by accessing the information available in the public domain. Further, if the relevant information is available in the public domain, the same cannot be said to be information held by the public authority and consequently there is no obligation to provide such information to an applicant under the RTI Act. In view of these observations, I find that the respondent cannot be obliged to research and deduce anything from the information which is already available in the public domain and then provide the same to the appellant. Notwithstanding the same, I note that the respondent has guided the appellant to refer to the SEBI website where the DRHP has been made available for the public. Therefore, I find that the queries have been adequately addressed and no fault can be found with the response.
6. **Query numbers 5, 13, 14, 20, 21, 22 and 25-** The appellant, vide query number 5, sought information as to when Oravel Stays Limited is planning to launch IPO. Vide query number 13 and 14, appellant sought information regarding source of funds of RA Hospitality and the prime source of income and revenue of RA Hospitality. Vide query number 20, 21 and 22, appellant sought the pre-IPO and current valuation of Oravel Stays and the reason why Softbank has deducted the valuation of Oravel Stays. Vide query number 25, the appellant sought information regarding how the payment was made by RA Hospitality to Oravel Stays.

7. The respondent, in response to the aforesaid queries, informed that the requested information is not available with SEBI. I note that the appellant, in his appeal, has not made any specific submission regarding the said response.
8. I have perused the queries and the response provided by the respondent. With respect to the aforesaid queries, the respondent has categorically informed regarding non-availability of the requested information. In my view, the respondent is expected to provide information as available on record and not create any information. In this context, I note that the Hon'ble CIC, in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: “... if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given.” In view of the same, I do not find any deficiency in the response.
9. **Query numbers 19 and 36-** The appellant, vide query number 19, sought total income and losses of Oravel Stays during the years 2012-13 till 2021-22. Vide query number 36, the appellant sought latest and updated copy of DRHP of Oravel Stays.
10. The respondent, in response to the aforesaid queries, informed that the financial statements of Oravel Stays Limited for FYs 2012-13 till 2017-18 are not available with SEBI as disclosures for the same in DRHP are not required under SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2018. Further, the financial statements of Oravel Stay Limited for FY-2018-19, FY 2019-20 and FY 2020-21 are contained in the aforesaid DRHP. The respondent also informed that the financial statements for FY 2021-22 have been filed by Oravel Stays Limited by an addendum to the DRHP dated September 19, 2022 and that the same is available for public on SEBI's website. The respondent also provided the link for accessing the same.
11. I have perused the queries and the response provided thereto. I note that the respondent has provided the information available with him and also guided the respondent to access the requested information available on the SEBI website. In my view, the queries have been adequately addressed and no further intervention is warranted at this stage.
12. **Query numbers 23 and 29-** The appellant, vide query number 23, sought information regarding how valuation cut of the Oravel Stays will affect its IPO. Vide query number 29, the appellant, *inter alia*, queried how SEBI makes sure that the investment of retail investors does not go in vain.

13. In response to the aforesaid queries, the respondent informed that the queries are in the nature of seeking clarification/opinion and hence, cannot be construed as seeking ‘information’ in terms of section 2(f) of the RTI Act. However, the respondent informed that SEBI is currently examining the DRHP of Oravel Stays Limited and shall be issuing its observations after processing of the document.
14. I have perused the queries and the response provided thereto. On consideration, I find that that the query of the appellant is more in the nature of seeking clarification/ opinion from the respondent. I note that 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. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) where similar information was sought by the appellant. The Hon’ble CIC, in the said matter, observe 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.
15. Notwithstanding the above, I note that the respondent has already informed the appellant that the DRHP is currently being examined by SEBI. Accordingly, I do not find any deficiency in the response.
16. **Query number 27, 28 and 33-** The appellant, vide query number 27, sought information regarding whether a loss making company can launch an IPO in India. Vide query number 28, the appellant sought the grounds on which a loss making company is allowed to launch an IPO in India. Vide query number 33, the appellant queried whether SEBI does any background check of the companies before allowing such companies to launch their IPO.
17. The respondent, in response to the aforesaid queries, informed that the eligibility conditions and process of due diligence and issuance of observations by SEBI for ‘Initial Public Offer’ are contained in Chapter

II of SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2018. The respondent also provided the link for accessing the said Regulations which are available on the SEBI website.

18. I have perused the queries and the response provided thereto. On consideration, I find that the said queries are in the nature of seeking clarification/opinion from the respondent and hence, cannot be construed as seeking “information” in terms of section 2(f) of the RTI Act. Notwithstanding the same, I note that the respondent has adequately guided the appellant to refer to the relevant SEBI Regulations available in the public domain. Accordingly, no further intervention is warranted.
19. **Query numbers 30, 31 and 32-** The appellant, vide said queries, *inter alia*, sought various details regarding loss making companies who have launched an IPO in India in the last 10 years.
20. The respondent, in response to the aforesaid queries, informed that the requested information is not available with SEBI. However, the respondent mentioned that the list of all DRHPs filed with SEBI are available for public on SEBI’s website. Additionally, the names of all the companies having been listed in the past years can be accessed from the website of Stock Exchanges, namely BSE and NSE. The respondent also provided the links for accessing the same.
21. I have perused the queries and the response provided thereto. I note that the respondent has informed regarding the non-availability of the requested information with SEBI. I note that the respondent has also guided the appellant to access the various DRHPs filed with SEBI and the names of the companies having been listed on the Stock Exchanges. On consideration, I find that the queries have been adequately addressed. Accordingly, I do not find any deficiency in the response.
22. 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

ANAND BAIWAR

Date: November 28, 2022

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