

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

Appeal No. 4996 of 2022

Rahul Kumar Sitaram Singh	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated March 23, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated March 17, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated April 16, 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-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent with respect to query numbers 1, 3, 4, 6, 8, 9, 10, 11 and 12. The appellant, in his appeal, submitted that the respondent has not provided any genuine justification or reason as to how few selected information sought by the appellant falls under the purview of information as defined under Section 2(f) of the RTI Act, while rest don’t fall under the purview of information. Further, the appellant submitted that the information sought by the appellant cannot be interpreted as clarification or opinion. In view of the submissions made by the appellant, I am only dealing with the said queries and the response provided thereto, in the following paragraphs.
3. **Query numbers 1 and 3-** The appellant, vide query numbers 1 and 3, sought the following information-
 1. *At which time period NSE’s Co-Location scam was started and ended, after the SEBI’s interference?*
 3. *Procedure adopted for the appointment of Auditors at NSE for NSEL coLocation Purpose and their Term of Reference.*
4. 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 the RTI Act.

5. I have perused query number 1 and the response provided thereto. On consideration, I am inclined to agree with the observation of the respondent that the query is not clear and specific. In this context, I note that in the matter of *Shri S. C. Sharma vs. CPIO, Securities and Exchange Board of India* (Decision dated August 30, 2012), the Hon'ble CIC held: "*Since the Appellant had not clearly stated what exact information he wanted, the CPIO could not have provided any specific information to him. We would like to advise the Appellant that he might like to specify the exact information he wants from the SEBI and prefer a fresh application before the CPIO.*" In view of these observations, I do not find any deficiency in the response.
6. With respect to query number 3, I find that the query is more in the nature of seeking clarification from the respondent. Accordingly, the same cannot be construed as seeking "information" under the RTI Act.
7. **Query numbers 4, 6, 8, 9, 10, 11 and 12-** the appellant, vide said queries, sought the following information-

4. *Whether the appointment of Auditors of NSE was done at the recommendation of SEBI or the Auditors were appointed by NSE only?*
6. *Whether the clients of the respective brokers are also being probed for illegal gains ?*
8. *Is there any specific timeline assigned to submit the final report of the investigation?*
9. *Whether the conflict of interest was also investigated in NSE departments?*
10. *Whether it is mandatory to seek permission from SEBI to launch Colocation facility by any Exchange?*
11. *Whether the NSE ever sought any permission from the SEBI for the colocation facility?*
12. *Whether the SEBI's investigation so far in the matter or Audit Report indicates the disclosure of any sensitive confidential information to the outsider?*

8. The respondent, in response to the aforesaid queries, informed that the queries 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 Acts.
9. I have perused the queries and the response provided thereto. On consideration, I find that the queries are more in the nature of seeking clarification/confirmation/opinion from the respondent. I note that the respondent 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/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.” 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.

10. 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: May 13, 2022

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