

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

Appeal No. 5586 of 2023

Divya D	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated January 10, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated February 02, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00033) dated February 06, 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. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. The appellant also submitted In view of the submissions made by the appellant in her appeal, I am dealing with the queries and the response provided thereto in the following paragraphs.
3. **Query numbers 1 and 5-** The appellant, vide query numbers 1 and 5, sought the following information-

“1. Kindly provide information on the number of Employees who are covered under National Pension System (NPS)/ Defined contribution Pension Scheme (DCPS) in your organization. Kindly provide information on how much is the monthly outgo to these Employees as Employer contribution to the NPS scheme?

5. Kindly provide information on the details of payslip components that are considered for monthly NPS/DCPS contribution. Kindly provide information on whether basic and DA only are considered or any components like Grade pay, special allowance are considered. Kindly provide information on the percentage of Employee and Employer contribution on these components.”

4. The respondent, in response to query number 1, informed that 373 SEBI employees were covered under NPS as on January 31, 2023. The respondent also informed that the monthly outgo towards NPS as employer contribution was Rs. 50.37 Lakh. The respondent, in response to query number 5, informed the payslip components that are considered for NPS contribution. The respondent also informed that the employee contribution towards NPS was 12% and employer contribution was 14%.
5. I have perused the queries and the response provided thereto. On consideration, I find that the respondent has adequately addressed the queries by providing the information available on record. Accordingly, I do not find any deficiency in the response.
6. **Query numbers 2, 4, 6, 7 and 8-** The appellant, vide query numbers 2, 4, 6, 7 and 8, sought the following information-

“2. Kindly provide information on whether the Employees covered under NPS/DCPS are allowed to retire voluntarily? If so, kindly provide information after completing how many years of continuous service in your Organization. Kindly provide information on whether the same will be treated as voluntary retirement or resignation.

4. Kindly provide information on whether the NPS/DCPS Employees, if eligible for voluntary retirement, are eligible for Encashment of Privilege/Earned leave, Health Insurance/staff Mediclaim benefits. Kindly provide information on the entitled benefits on voluntary retirement of NPS/DCPS Employees. Kindly provide information on whether any other additional benefits are paid to Employees in your Organization not covered under NPS/DCPS.

6. Kindly provide information on whether employees covered under NPS/DCPS are eligible for family pension if the Employee dies whilst in service or after retirement.

7. Kindly provide information on the entitled benefits for employees covered under NPS/DCPS if the Employee dies whilst in service.

8. Kindly provide information on whether there is any provision to continue in Staff Mediclaim/health insurance if the Employee covered under NPS/DCPS wishes to resign/avail voluntary retirement.”

7. 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 Act, 2005.

8. I have perused the queries and the response provided thereto. On consideration, I find that the queries pertaining to the NPS scheme are in the nature of seeking clarification/ 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/ 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 agree with the response provided by the respondent. Accordingly, no further intervention is warranted at this stage.
9. **Query number 3-** The appellant, vide query number 3, sought information regarding eligibility criteria for Employees covered under NPS/DCPS to fulfil the requirements of voluntary retirement.
10. The respondent, in response to the aforesaid query, advised the appellant to refer to the SEBI (Employees' Service) Regulations, 2001 which is available on the SEBI website.
11. I have perused the query and the response provided thereto. I note that that answer to the query can be found out by the appellant by accessing the information which is already available in the public domain. In this context, the Hon'ble Delhi High Court, in the matter of *Registrar of Companies & Ors. Vs. Dharmendra Kumar Garg & Anr.* and the Hon'ble CIC in the matter of *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007), *inter alia*, observed that 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

appropriately guided the appellant to refer to the relevant regulations available on the SEBI website. 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: February 22, 2023

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