



By Registered AD

Ref. No.L000124684/RTI/A-06/2018

August 31, 2018

**APPEAL No.06/2018-19 BEFORE  
FIRST APPELLATE AUTHORITY UNDER  
RIGHT TO INFORMATION ACT (RTI ACT), 2005**

**Background:**

The Appellant, Shri Dolphy S D'Mello, S/o Late L. C. D'Mello, Flat no. 701, SIDBI Officers' Quarters, Videocon Apartments, 25, Veera Desai Road, Andheri (West), Mumbai- 400053 has preferred the present appeal dated August 03, 2018 under section 19(1) of RTI Act (received by office of First Appellate Authority (FAA) on August 03, 2018) against the Order No.2425 dated July 19, 2018 passed by CPIO requesting intervention of FAA in providing information sought by him in the RTI application.

**Observations:**

I have gone through the contents of his Appeal dated August 03, 2018, as also the order No.2425 dated July 19, 2018 passed by CPIO in the matter. It is observed that vide his RTI application dated June 22, 2018, the appellant had sought various information / documents in respect of his promotion, vigilance, staff accountability exercise etc. i.e. (i) Full Report of the Fact Finding Team which had undertaken the FFT of Champion Agro Ltd., an NPA case of Rajkot Branch Office, (ii) Full Report and Minutes of Central Review Committee-Major (CRC-Major), which had examined the FFT report of Champion Agro Ltd., an NPA case of Rajkot Branch Office, (iii) Full Report and Minutes of Internal Advisory Committee on Vigilance (IACV), which had examined the CRC-Major report of Champion Agro Ltd., an NPA case of Rajkot Branch Office, clearly highlighting the grounds on the basis of which the committee opined about presence of vigilance angle in this case, (iv) Office Notes / other documents etc., duly recorded by HRV, Mumbai / Lucknow based on representations dated (i) February 14, 2017, (ii) April 12, 2017, (iii) January 15, 2018, (iv) February 28, 2018 & (v) May 18, 2018 made by undersigned for grant of PP to the next higher Grade i.e. Grade 'E', (v) In r/o Annexure to HRV office note dated January 13, 2016 on staff – officer – Personal Promotion with reference to cut off date June 30, 2015 (obtained earlier through RTI), it was recorded in the column pertaining to 'Disciplinary

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/ Vigilance record' as 'Not Satisfactory' and 'Remarks' as 'will be considered during next review based on the outcome of pending Disciplinary Proceedings'.

In this regard, please provide certified copy of the office notes / documents recorded by Vigilance / Discipline Desk during that period, based on which HRV, Mumbai / Lucknow has recorded the statement 'Not Satisfactory' for the purpose of eligibility of Personal Promotion (PP) for the cut off date June 30, 2015, (vi) In t/o extract of HRV office note dated January 25, 2017 on staff – Officer – Personal Promotion with reference to cut off date June 30, 2016 (obtained earlier through RTI), it was stated ".....in case of Shri D'Mello, it is observed that disciplinary proceeding is still contemplated. Therefore, grant of PP to him would continue to be kept in abeyance pending outcome of the disciplinary proceedings". In this regard, please provide certified copy of the office notes / documents recorded by vigilance / discipline desk during that period, based on which HRV, Mumbai / Lucknow has recorded the abovementioned statement, (vii) Circular(s) on Personal Promotion applicable for cut off dated (a) June 30, 2015 and (b) June 30, 2016 which defines 'pending disciplinary proceedings' and 'contemplated disciplinary proceedings' and highlighting / marking such 'clauses' in the abovementioned circular(s), which are specifically applicable for Personal Promotion, (viii) Office note / other documents etc. duly recorded by HRV, Mumbai / Lucknow w.r.t. cutoff dated June 30, 2017 for continuing denial of grant of PP to the undersigned, (ix) Office Note / other documents recorded by Vigilance / Discipline Desk / Chief Vigilance Officer of the Bank w.r.t. decision taken for referring the case of Champion Agro Ltd. to Chief Vigilance Commission (CVC), (x) Date(s) of letter(s) addressed by the Bank to CVC in c/w Champion Agro Ltd, (xi) Letter(s) addressed by the Bank to CVC in c/w Champion Agro Ltd., (xii) Date(s) of the reply(ies) received by the Bank from CVC in c/w Champion Agro Ltd., (xiii) Reply(ies) received by the Bank from CVC in c/w Champion Agro Ltd., (xiv) Office Note / other documents etc., duly recorded by the HRV / Vigilance / Discipline Desk indicating name of the case / account based on which disciplinary proceedings were considered '*contemplated*' and / or 'pending' against the undersigned as per Staff Accountability Policy of the Bank, (xv) Subsequent office notes / other documents etc. duly recorded by the Bank with regard to (xiv) above, (xvi) Office Note / other documents etc., duly recorded by HRV, Lucknow / Mumbai granting Personal Promotion to my colleague viz. Shri Sanjay Gupta, DGM, who is also associated with the case of Champion Agro Ltd., (xvii) Order passed by Disciplinary Authority for initiating disciplinary proceedings against the undersigned for not granting the benefits of PP to the undersigned with reference to cutoff dates being June 30, 2015, June 30, 2016 and June 30, 2017, (xviii) Policy guidelines issued by the Bank and in force / applicable during the year 2015 clearly defining the circumstances under which acts of an officer can be classified as acts of 'gross negligence and / or recklessness having vigilance

connotations, (xix) Policy guidelines issued by the Bank and in force / applicable during the year 2015 clearly defining the deficiencies and lapses not being act of commission and also being devoid of any mala-fide, which can still be classified as acts of gross negligence and / or recklessness having vigilance connotations, (xx) Reasons for delay of 2 years from the date of submission of my first explanation dated January 12, 2016 for issuing Charge Sheet dated January 12, 2018 to the undersigned in the case of Champion Agro Limited (which was received by the undersigned in afternoon of January 15, 2018), and (xxi) All correspondence [date wise] including noting / drafting / letters etc recorded in the HRV / Discipline Desk / Vigilance Vertical during the interregnum period from January 12, 2016 to January 11, 2018 justifying the reasons for the delay as mentioned at (xx) above.

Not satisfied with the reply given by the CPIO, the Appellant has made this appeal on the grounds that CPIO has provided information in respect of 10 items only [Sl. No. (v) to (viii), (xiv), (xv), (xviii) to (xxi)] out of 21 items requested for to his RTI application dated June 22, 2018 and information in respect of remaining 11 crucial items [ Sl. No. (i) to (iv), (ix) to (xiii), (xvi) & (xvii)] were not provided which are crucial for him and non-availability of these would deprive the Appellant to build upon his defense in front of the Inquiry Officer for the Departmental Inquiry.

I observe that information with respect to the query at Sl. no. (i) to (iv) and (ix) to (xiii) of the RTI application dated June 22, 2018, CPIO rightly claimed exemption under section 8(1)(h) of RTI Act, 2005 as the requested information would impede the process of investigation or apprehension or prosecution of offenders since an departmental inquiry has been initiated against the Appellant in the matter of Champion Agro Limited, an NPA case of Rajkot Branch Office, SIDBI, Rajkot and case has already been referred to CVC. The obligation of CPIO to furnish the information arises in case the information is available with the Public Authority and the same is not exempted from the disclosure under the provisions of RTI Act.

With respect to query at Sl. No. (xvi), I observe that CPIO rightly claimed exemption under section 8(1)(j) of RTI Act, 2005 as the requested information contains the personal records of third party, the disclosure of which has no relationship to any public interest and also cause unwarranted invasion of the privacy of individual. Therefore, the ground for appeal by the Appellant is not maintainable.

With respect to query no. Sl. No. (xvii), I observe that CPIO has already given the information as available with the concerned department /vertical or Public Authority. Since the information provided by CPIO is not related to query raised by the Appellant i.e. Order passed by Disciplinary Authority for initiating disciplinary proceedings against the undersigned for not granting the benefits of PP to the

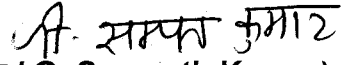
Appellant with reference to cutoff dates being June 20, 2015, June 30, 2016 and June 30, 2017, I found merit in the appeal and direct the CPIO to provide the information, if available. If not available, the same should also be communicated to Appellant.

Further, I observe that various justifications/ grounds for preferring this appeal by the Appellant against his queries are in the nature of grievances, requirement or use of these information to defend the case before the Inquiry Officer, views, explanation etc., which is beyond the scope of RTI Act. The Appellant is, however, free to approach the appropriate authority for redressal of his grievances if any.

**Order:**

I allow this appeal partly in respect of his Sl. No. (xvii) of RTI application and direct the CPIO to provide the information if available or otherwise within 20 working days from the date of receipt of the order. The appeal is accordingly disposed of.

Copy of this order be sent to the appellant and CPIO.

  
(जी सम्पत कुमार / G. Sampath Kumar)  
महा प्रबंधक तथा प्रथम अपीलीय प्राधिकारी  
**General Manager and  
First Appellate Authority**