

Shri G Sampath Kumar
General Manager & Appellate Authority under RTI
Small Industries Development Bank of India
Lucknow



Dear Sir,

Appeal under RTI Act
Ref CPIO Order No. 2425 dated July 19, 2018

I, Dolphy S D'Mello, s/o Late L.C. D'Mello, resident of 701, SIDBI Officers Quarters, Videocon Apartments, Veera Desai Road, Andheri (West), Mumbai-400053 and a resident of India hereby prefer an Appeal under RTI Act, 2005 in respect of certain information, which has not been provided to me. Brief details are as under :-

In terms of my letter dated June 22, 2018, I had requested for information under RTI in respect of 21 items. The CPIO vide Order No. 2425 dated July 19, 2018, has provided information on 10 items only viz., Sl. Nos. (v) to (viii), (xiv), (xv), (xviii) to (xxi). However, in respect of 11 crucial items, viz., (i) to (iv), (ix) to (xiii), (xvi) & (xvii), the CPIO has claimed that the information sought is exempted either under Sections 8(1)(h) / 8(1)(j) of RTI Act, 2005. The information sought for by me, the response of the CPIO against these 11 items and the grounds for making this appeal are given in the **Annexure** attached to this letter.

Sir, I would like to further mention that the Bank, vide Memorandum dated January 12, 2018, has initiated Departmental Inquiry proceedings against me in the matter of Champion Agro Limited, an NPA case of Rajkot BO. The Preliminary Hearing in the inquiry has since been done by the Inquiry Officer (IO), who happens to be an outside authority from CVC and the next date of hearing has been fixed for August 13, 2018. The requisite Information / copies of a few documents in respect of these 11 items are crucial and their non-availability would deprive me of a genuine opportunity to build upon my defense while presenting my case with the IO, which may ultimately jeopardize my interest. Therefore, in the interest of justice and to ensure transparency in the whole issue, I may be provided with the Information / copies of documents sought for. In view of this, I request you to look into the matter and issue necessary directives to CPIO, SIDBI to supply me the desired information / copies of documents on these 10 items,

I am also prepared to bear the additional cost / charges, if any, in the matter, which may please be advised to me. Copies of the above documents / information may please be sent to me at my official address at Small Industries Development Bank of India, Risk Management Vertical, 6th Floor, MSME Development Centre, C-11, G Block, Bandra Kurla Complex, Bandra (East), Mumbai - 400051.

Yours faithfully,

(D.S. D'Mello)
August 03, 2018

Appeal under RTI Act
Ref CPIO Order No. 2425 dated July 19, 2018

Sr. No of my letter dated 22-06-2018	Information sought	Information supplied	Grounds for preferring Appeal
(i)	Full Report of the Fact Finding Team, which had undertaken the FFT of Champion Agro Ltd., an NPA case of Rajkot Branch Office	The information sought by the information seeker is exempted under Section 8[1][h] of the RTI Act, 2005, hence not provided.	As per Section 8(1)(h) of the RTI Act, 2005 'the information which would impede the process of investigation or apprehension or prosecution of offenders' is exempted.
(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.	The information sought by the information seeker is exempted under Section 8[1][h] of the RTI Act, 2005, hence not provided.	Background of the case The Bank, vide letter dated December 21, 2015, had sought my version / explanation on certain irregularities alleged to have been committed by me in the case of Champion Agro Limited (an NPA case of Rajkot BO). Despite submission of my detailed reply dated January 12, 2016 to the Bank on the issues raised, no subsequent communication was received by me from the Bank. Neither was I advised by the Bank whether my version / explanation was found satisfactory or not nor was I advised to submit further explanation in the matter. The total silent approach adopted by the Bank in the matter for as long as 2 years and then initiation of disciplinary proceedings against few selected officers of the Bank is indicative of the discriminatory approach adopted by the Bank. Incidentally, my promotional result for the post of General Manager in Grade E for the panel years 2016-17 & 2017-18 has been kept in Sealed Covers by the Bank.
(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	The information sought by the information seeker is exempted under Section 8[1)(h) of the RTI Act, 2005, hence not provided.	To summarize, issue of Charge Sheet dated January 12, 2018 (after a gap of 2 years), for initiating disciplinary inquiry against me along with 2 other officers for major penalty proceedings is

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highlighting the grounds on the basis of which the Committee opined about presence of vigilance angle in this case.

inconceivable and beyond my imagination. Nevertheless, I have already given a detailed reply to the Charge Sheet and is now required to defend my case before the Inquiry Officer (IO), who happens to be an official from Central Vigilance Commission (CVC).

To facilitate me in presenting my side of the case to the IO w.r.t. the alleged charges in the Charge Sheet, I had made a request for the following reports to the CPIO viz., (i) Fact Finding Team (FFT), (ii) Central Review Committee (Major) [CRC-MJ], and (iii) Internal Advisory Committee on Vigilance (IACV). These reports have formed the basis of making the case as a 'vigilance' case. Hence, these reports will form part of my defence. Incidentally, I also wish to learn from these reports, which of the lapses / irregularities containing a 'vigilance' angle have been attributed in my case.

Hence, making available the 3 reports, become all the more incumbent in light of non-availability of policy guidelines in the Bank, which were applicable and in force during the year 2015 with regard to (i) defining the circumstances under which acts of an officer can be classified as 'acts of gross negligence' and / or 'recklessness' having vigilance connotations and (ii) defining the deficiencies and lapses not being 'acts 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. It may be mentioned that the Bank has already confirmed to me in writing in response to my RTI application dated 22-06-2018 that it does not have any information with regard to these points.

In view of what is stated above and in the interest of justice, I may be provided with a copy of all the 3 full reports to enable me to determine my position in the case and put forth my views accordingly on the points raised in these reports in support of



			<p>my defense before the IO. Non-availability of copy of these reports would deprive me of a genuine opportunity to build upon my defense in front of the IO during the course of inquiry proceedings.</p> <p><i>Incidentally, it may be mentioned that these reports have already been shared with one of the three officers, who have been issued charge sheet in this case. Hence, denial of sharing these reports to me is not justified, as there needs to be consistency in the approach of HRV.</i></p> <p>Further, the information sought is not related to any third party and would not infringe on privacy of any other person. Therefore, the information sought by me cannot be deemed to be exempted under Section 8(1)(h) of RTI Act.</p> <p>I, therefore, appeal to you to direct the CPIO to supply the desired information to me else clearly state that no such records exist in the custody of the Bank.</p>
(iv)	<p>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 the undersigned for</p>		<p>HRV has not responded to my various representations on non-grant of PP to me since my first representation in February 2017. Since the issue is directly related to me, denial of sharing office notes / documents etc. duly recorded by HRV, Mumbai / Lucknow is not justified. Incidentally, a few connected documents have already been shared by the Bank while seeking information through the two RTIs made by me in c/w non-grant of PP. Hence, sharing of partial documents / information may not be justified on the part of HRV.</p> <p>I, therefore, appeal to you to direct the CPIO to supply the desired information to me else clearly state that no such records exist in the custody of the Bank.</p>

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	grant of PP to the next higher Grade i.e. Grade 'E'.	
(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)	<p>The information sought for is not related to any third party and would not infringe on privacy of any other person. Therefore, the information sought by me cannot be deemed to be exempted under Section 8(1)(h) of RTI Act. Further, non-availability of copy of these documents would deprive me of a genuine opportunity to build upon my defense in front of the IO during course of inquiry proceedings.</p> <p>In view of the above, I appeal to you to direct the CPIO to supply the desired information to me else clearly state that no such record exists in the custody of the Bank.</p> <p>My comments are same as indicated at Sr. Nos. (i) to (iv) above.</p>
(x)	Date(s) of the letter(s) addressed by the Bank to CVC in c/w Champion Agro Ltd.	<p>The information sought by the information seeker is exempted under Section 8(1)(h) of the RTI Act, 2005, hence not provided</p> <p>Further, as per Section 8(1)(h) of the RTI Act, 2005 'the information which would impede the process of investigation or apprehension or prosecution of offenders' is exempted.</p> <p>It may be mentioned that furnishing the date(s) of the letters addressed by the Bank to CVC in c/w Champion Agro Ltd. will not in any way impede the process of investigation or apprehension or prosecution of offender, who incidentally happens to be me.</p> <p>In view of the above, I appeal to you to direct the CPIO to supply the desired information to me else clearly state that no such record exists in the custody of the Bank.</p> <p>My comments are same as indicated at Sr. Nos. (i) to (iv) above.</p>
(xi)	Letter(s) addressed by	<p>My comments are same as indicated at Sr. Nos. (i) to (iv) above.</p>

	the Bank to CVC in c/w Champion Agro Ltd.	<p>As per Section 8(1)(h) of the RTI Act, 2005 'the information which would impede the process of investigation or apprehension or prosecution of offenders' is exempted.</p> <p>It may be mentioned that furnishing copy of the letters addressed by the Bank to CVC in c/w Champion Agro Ltd. will not in any way impede the process of investigation or apprehension or prosecution of offender, who incidentally happens to be me. There is no intrusion in my privacy for denying the information. However, non-availability of copy of these documents would deprive me of a genuine opportunity to build upon my defense in front of the IO during course of inquiry proceedings.</p> <p>In view of the above, I appeal to you to direct the CPIO to supply the desired information to me <u>else</u> clearly state that no such record exists in the custody of the Bank.</p>
(xii)	Date(s) of the reply(ies) received by the Bank from CVC in c/w Champion Agro Ltd.	<p>My comments are same as indicated at Sr. Nos. (i) to (iv) above.</p> <p>Further, as per Section 8(1)(h) of the RTI Act, 2005 'the information which would impede the process of investigation or apprehension or prosecution of offenders' is exempted.</p> <p>It may be mentioned that furnishing the date(s) of the letters received by the Bank from CVC in c/w Champion Agro Ltd. will not in any way impede the process of investigation or apprehension or prosecution of offender, who incidentally happens to be me.</p> <p>In view of the above, I appeal to you to direct the CPIO to supply the desired information to me <u>else</u> clearly state that no such record exists in the custody of the Bank.</p>

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(xiii)	Reply(ies) received by the Bank from CVC in c/w Champion Agro Ltd	My comments are same as indicated at Sr. Nos. (i) to (iv) above. It may be mentioned that furnishing copy of the letters received by the Bank from CVC in c/w Champion Agro Ltd. will not in any way impede the process of investigation or apprehension or prosecution of offender, who incidentally happens to be me. There is no intrusion in my privacy for denying the information. However, non-availability of copy of these documents would deprive me of a genuine opportunity to build upon my defense in front of the IO during course of inquiry proceedings.
(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.	<p>In view of the above, I appeal to you to direct the CPIO to supply the desired information to me else clearly state that no such record exists in the custody of the Bank.</p> <p>Section 81(j) of RTI Act, 2005 - information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.</p> <p><u>Background</u> : It may be mentioned that out of the 3 officers who have been issued Charge Sheet in the case of Champion Agro Ltd., two of the officers are Shri Sanjay Gupta, DGM and myself. However, while I have been denied PP, DGM(SG) has been drawing PP since the time he became eligible. Incidentally, a common office order for PP was issued for two batches viz., batch of DGM(SG) and my batch.</p> <p>My intention in seeking this information is to understand the guidelines / norms applied by HRV, while allowing PP to</p>

		<p>interest and cause unwarranted invasion of the privacy of individual, therefore not provided.</p>	<p>DGM(SG) and denying the same benefit to the undersigned, especially when both are involved in the same disciplinary case. By seeking this information, I am not causing any unwarranted invasion into the privacy of DGM(SG). If the HRV feels it appropriate, it can obtain clearance from DGM(SG) before sharing the information.</p> <p>At the cost of repetition, I reiterate that the purpose of seeking this information is to understand the circumstances which led HRV to deny me PP benefits while granting the same to DGM(SG). The entire approach of HRV seems to be discriminatory in nature and hence this request.</p> <p>In view of the above, I appeal to you to direct the CPIO to supply the desired information to me <u>else</u> clearly state that no such record exists in the custody of the Bank.</p>
(xvii)	<p>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</p>	<p>The Office note referred to in Point (xiv) above contains the information sought by the applicant in terms of Point (xvii) also.</p>	<p>The information sought by me was in relation to an Order passed by Disciplinary Authority (DA) for not granting benefits of PP to me.</p> <p>The contents of Annexure IV referred to in Sr.No.(xiv) and provided by CPIO is an office note dated 11.12.2015 on Staff Accountability Exercise recorded by HRV in c/w Champion Agro Ltd. Based on this office note, version / explanation was called for from 5 officers, including me. On perusal of the o/n dated 11.12.2015, it is observed that this office note does not cover any aspect related to eligibility of PP or otherwise to be granted to me.</p> <p>In view of the above, I appeal to you to direct the CPIO to supply the desired information to me <u>else</u> clearly state that no such record exists in the custody of the Bank.</p>

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