

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

Appeal No. 5536 of 2022

Appeal No. 5537 of 2022

Vineet Jaiswal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed two applications (Reg. Nos. SEBIH/R/E/22/01615 and SEBIH/R/E/22/01616) dated November 21, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a common letter dated December 16, 2022, responded to the applications filed by the appellant. The appellant filed two appeals (Reg. Nos. SEBIH/A/E/22/00672 and SEBIH/A/E/22/00673) dated December 19, 2022, against the Respondent’s letter dated December 16, 2022. I have carefully considered the applications, the response and the appeals and find that the matter can be decided based on the material available on record.
2. **Queries in the application** –The appellant, vide his application Reg. No. SEBIH/R/E/22/01615 dated November 21, 2022, sought the following information:
 1. *Whether submission of Probate of Will is mandatory, when a notarized copy of Will has been submitted to the RTA by the claimant along with the other documents as mentioned in the said SEBI Circular?*
 2. *Whether SEBI has set any monetary/ valuation limit in the said circular for cases of transmission of physical shares on the basis of Will of the deceased shareholder?*
 3. *Whether submission of affidavit (Annexure-D) only by the claimant who is the sole beneficiary/legatee under the Will of the deceased shareholder is sufficient or whether there is also a requirement of submitting separate affidavits (Annexure-D) from all the other heirs/ children of the deceased shareholder who are not the beneficiary / legatee under the Will?*
 4. *Whether submission of Indemnity Bond (Annexure-E) only by the claimant who is the sole beneficiary/legatee under the Will of the deceased shareholder is sufficient or whether there is also a*

requirement of submitting indemnity bond (Annexure-E) from all the other heirs/ children of the deceased shareholder who are not the beneficiary / legatee under the Will?

5. *Whether there is a requirement for submission of a No objection certificate (Annexure-F) from all the other heirs/ children of the deceased shareholder who are not the beneficiary / legatee under the Will, when a notarized copy of Will has been submitted to the RTA by the claimant?*
6. *Whether there is a requirement of submitting Form ISR-1, Form ISR-3 or Form SH-13 by the claimant at the time of making the request for transmission of physical shares on the basis of Will (considering the fact that the RTA/ Company cannot issue any physical shares post transmission and that they can only issue a Letter of Confirmation to the claimant on the basis of which the claimant will have to get them dematerialized)?*
7. *Whether an RTA can ask for the submission of additional documents which are not specified in Annexure-A of the said SEBI Circular dated May 18, 2022?*
8. *Whether there is a requirement for submission of self-attested PAN Cards and address proofs of all other heirs/ children of the deceased shareholder who are neither the beneficiary/ legatee under the Will nor are they making any claim for the shares?*
9. *Whether no response or non- processing/ completion of the request for transmission of physical shares by an RTA and/ or the company within thirty (30) days of submission of the transmission request along with supporting documents by the claimant is a violation of the said SEBI Circular by the RTA and/ or the company.*

3. The appellant, vide his application Reg. No. SEBIH/R/E/22/01616 dated November 21, 2022, sought the following information:

“In case the death certificate of a deceased shareholder is untraceable/missing, what would be the requisite alternate procedure/document(s) for proceeding with the transmission of physical shares in favour of the claimant/ heir? Background.”

4. The respondent, in response to both the aforesaid applications, 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.
5. **Ground of appeal-** The appellant has filed the appeals on the ground that access to the requested information was refused. The appellant, in his appeals, *inter alia*, requested to provide specific response to his queries since the definition of “Information” as per section 2(f) of the RTI Act includes opinions.

6. I have perused the queries and the response provided thereto. On consideration, I find that the queries are in the nature of seeking clarification/ opinion from the respondent. The queries also appear to be situational queries regarding transmission of physical shares on the basis of Will of the deceased shareholder. I note that the respondent is not supposed to create information; or to interpret information; or to furnish clarification to the appellant under the ambit of the RTI Act. In this context, I note that the Hon'ble CIC, in the matter of *Mr. Mahendra Kumar Mehta vs. CPIO, SEBI* (Judgment dated April 12, 2021), held that: *"9. This Commission observes that the appellant herein attempts to seek legal opinion/ clarification from the CPIO to his situational queries with regard to 'the circular, rules, regulations, notification etc. regarding trading member for taking stock in pledge, collateral, or security for providing margin to do trade in reference to derivatives segment, charging of interest and GST, precaution to be taken by trading member for protection of constituents individual/ HUF etc.'. Therefore, the CPIO is not supposed to interpret information; or to furnish replies to situational queries; or to furnish clarifications. Hence, such queries seeking legal opinion/ clarification from the CPIO are not covered within the definition of 'information' u/Section 2(f) of the RTI Act, 2005. Accordingly, this Commission upholds the contention put forth by the CPIO."* In view of these observations, I find that the respondent does not have any obligation to provide such clarification/opinion with respect to situational queries, under the RTI Act. Accordingly, I do not find any deficiency in the response.
7. In view of the above observations, I find that there is no need to interfere with the decision of the respondent. The appeals are accordingly dismissed.

Place: Mumbai

Date: January 18, 2023

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