

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

Appeal No. 6195 of 2024

Nand Lal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 30, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 10, 2024, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00248) dated October 10, 2024. 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 he has been refused access to the information requested.
3. **Query no. 1 in the application** - The appellant, in his application dated September 30, 2024, referred to his letter dated August 16, 2024 sent to the Chairperson, SEBI and sought the following information with respect to the same:

“1. What action/ Steps taken upon receiving the Letter mentioned above.”
4. **Reply of the Respondent** - The respondent, in response to query no. 1 of the application, informed the appellant regarding the procedure followed by SEBI with respect to its investigations. In this regard, respondent informed that SEBI conducts investigations to examine alleged or suspected violations of laws and Regulations related to securities market and the same are conducted confidentially in a holistic manner. The respondent also informed that SEBI neither confirm nor deny the existence of any investigation. The respondent also mentioned in his reply that post investigation, whenever violations are established, appropriate enforcement actions are taken under the provisions of the SEBI Act, 1992 and

Regulations framed thereunder which culminate in the issuance of Orders, which are available in public domain. The respondent also provided the path for accessing the aforementioned Orders in the SEBI website.

5. I have perused the aforesaid query and the response provided thereto. I note that the appellant has sought for information regarding action/steps taken by SEBI in relation to a complaint letter sent by him. I note that the respondent has neither confirmed nor denied existence of any examination or investigation. I find that the same is justified where disclosure of existence of investigation or otherwise would itself amount to disclosure of exempted information. SEBI receives alerts and references from various sources and these may or may not result in further action by SEBI such as examination or investigation. Further, such examination or investigation may or may not establish the suspected violations or lead to enforcement actions. Maintaining confidentiality of investigation is important since reports of an investigation may result in unwarranted speculation or concern in the market or may affect evidence collection during the investigation or may result in unnecessary harm to third parties. Further, I note that information regarding any regulatory action taken by SEBI/penalty imposed against entities, would be available on the website of SEBI. The said rationale for neither confirming nor denying existence of any examination/ investigation was relied upon by SEBI before the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**") in *Arun Damodar Sawant vs CPIO, SEBI*(order dated September 26, 2018 in Appeal No. CIC/SEBIH/A/2017/ 137139/BJ). The Hon'ble CIC, in the said matter, accepted the submissions and refused to intervene in the response of the CPIO. Similar observations were also made by the Hon'ble CIC, in the matter of *Anju Sharma vs. CPIO, SEBI*(order dated September 28, 2020).
6. In view of these observations, I find that the queries have been adequately addressed and no further interference of this forum is warranted at this stage.
7. **Query no.2 in the application:** The appellant, vide his query no.2 in the application dated September 30, 2024, sought the following information:

"2. If any letter sent to any other department please provide me the copy of that letter."
8. **Reply of the Respondent** - The respondent, in response to the query no. 2 in the application informed that query no.2 is vague and not specific. Accordingly, the same cannot be construed as "information", as defined under section 2(f) of the RTI Act.

9. I have perused the aforesaid query and the response provided thereto. I concur with the response of the respondent that the query no 2 is vague and not specific. It is an established law that the information sought for in order to be disclosable under the RTI Act, must be clear, specific and available in the records of the public authority. In this context, I note that in the matter of *Mr. T. V. Sundaresan vs. CPIO, Securities and Exchange Board of India* (Decision dated November 24, 2021), the Hon'ble CIC held: *"The framework of the RTI Act, 2005 expects that the information sought is specific and believed to be existing with the public authority in documented or material form as such; which can be shared with the appellant as per the provisions of the RTI Act. Answering to broad, multiple and general queries and presumptive documents that should have been generated as per the expectation of the appellant cannot be furnished under the provisions of the Act."* Accordingly, I do not find any deficiency in the response of the respondent.
10. **Query no. 3 in the application:** The appellant, vide his query no.3 in the application dated September 30, 2024, sought the following information:
- " 3. If any complaint number/ Intimation number got generated for my complaint letter, please provide me the details for future reference. In case of any further communication regarding this registered letter."*
11. **Reply of the Respondent** - The respondent, in response to the query no. 3 in the application informed that no complaint number / intimation number is available for the complaint letter.
12. I have perused the aforesaid query and the response provided thereto. On consideration, I find that the respondent has adequately addressed the said query by providing the information available with him. Accordingly, no further intervention of this forum is warranted.
13. **Query no. 4 in the application:** The appellant, vide his query no.4 in the application dated September 30, 2024, sought the following information:
- " 4. In the letter I have shared some additional Very Important Information related to LA Capitalaim Financial Advisory Pvt. Ltd. Which I came to know after Final order issued by SEBI, so I Shared with Chairperson. Is there any other info is required by SEBI related to letter mentioned above? Please let me know."*
14. **Reply of the Respondent** - The respondent, in response to query no.4 of the application, informed that the information sought is in the nature of seeking clarification/opinion. Accordingly, the same cannot be construed as "information", as defined under section 2(f) of the RTI Act.

15. I have perused the aforesaid query and the response provided thereto. On consideration, I concur with the response of the respondent that the said query is in the nature of seeking clarification/opinion from the respondent. I find that the said query cannot be construed as seeking 'information' as defined under section 2(f) of the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon'ble CIC observed 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". Accordingly, I do not find any deficiency in the response.
16. 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: November 07, 2024

RUCHI CHOJER

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