

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

Appeal No. 5522 of 2022

Anand Prakash	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated November 15, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated December 01, 2022, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/22/00661) dated December 01, 2022. 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. **Queries in the application** –The appellant, vide his application dated November 15, 2022, sought the following information:

“It is observed while applying in IPOs through ASBA via internet banking from different banks that, individual Bank withdraw or close the online window at their discretion. There is no uniformity or fix cut-off time to close the issue or online portal. 1) at 2 o’clock 2) at 3 o’clock 3) at 4 o’clock Please provide me information in this regard and provide circular under which Banks have been empowered by SEBI to close the online window for applying IPO at their discretion. As per SEBI rules what are the timing up to which banks have to accept the physical application in the ASBA branches. As per SEBI rules considering banking working hours up to 4.30 pm, what are the instructions to the bank for applying ASBA application online by investors. SEBI imposes any penalty on banks for non-adherence of ASBA rules and guidelines and compensation is awarded to investors.”

3. The respondent, in response to the application, informed that SEBI has not prescribed any rules/circulars for banks specifying timing for closure of online window for IPO applications or timing up to which banks have to accept the physical applications in ASBA. However, the respondent informed regarding the Circular No. SEBI/HO/CFD/CIL2/CIR/P/2018/22 dated February 15, 2018 which

provides the calculation of minimum compensation payable to retail individual investors in an IPO for failure on part of Self Certified Syndicate Banks (SCSB), *inter alia*, to make bids in the concerned exchange system after the amount has been blocked in the investors' bank account with SCSB, to process the ASBA applications even when they have submitted within time or any other failures on part of an SCSB which results in rejection of application form.

4. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. The appellant, in his appeal, reiterated the queries raised in his application and requested to provide the information at the earliest. The appellant submitted that SCSB has to accept the physical ASBA applications up to the banking hours meant for public dealing i.e. up to 4:30 pm and that each bank has fixed its own time of acceptance of ASBA applications physically and through internet banking.
5. 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. 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 did 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.
6. Notwithstanding the above, I note that the respondent has adequately addressed the queries by providing the information available with him. Further, the respondent also guided the appellant to access the relevant Circular which is already available in the public domain.

7. 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: December 30, 2022

ANAND BAIWAR

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