

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

Appeal No.5849 of 2023

Pradeep Garg	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 05, 2023 (received by SEBI on September 09, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 05, 2023, responded to the application filed by the appellant. The appellant filed an appeal dated October 28, 2023 (received by the Office of Appellate Authority on November 06, 2023). I have perused the application, the response of the respondent and the appeal and find that the matter can be decided based on the material available on record.
2. **Request in the application-** The appellant, in his application, *inter alia*, sought information pertaining to transaction statement of his trading account for the period January, 2007 to December 2022.
3. **Reply of the Respondent** - The respondent, in response to the application, informed that the information sought is not maintained by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) in normal course of regulation of securities market. Hence, the same is not available with SEBI.
4. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant, in his appeal, *inter alia*, requested that information sought by him may be provided to him or his application may be transferred to the concerned person having such information.
5. I note that the respondent has categorically stated that the requested information is not available with SEBI. I note that the respondent can only provide information that is available in the records. In this context, I note that the Hon’ble Central Information Commission (hereinafter referred to as “**CIC**”), in the matter of *Lakshminarayanan R vs. SEBI* (order dated February 09, 2023) observed that “*Keeping in view*

*the facts of the case, the Commission observed that the information sought by the appellant regarding Central Depository Services Ltd. was not maintained by the respondent authority in the normal course of regulation of securities market. It is an established law that the information sought for in order to be disclosable under the RTI Act, 2005 must be existent and available in the records..... In the instant case, the desired information was not available in the records of the respondent authority...” Further, the appellant, in his appeal has *inter alia*, requested that his application may be transferred to the concerned person/entity. I note that the said request is being made by the appellant for the first time in the appeal. As held by the Hon’ble CIC in *Harish Prasad Divedi vs. Bharat Petroleum Corporation Limited* (decided on January 28, 2014), an information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage. Accordingly, I find that the said submissions do not warrant consideration at this stage. Notwithstanding the above, I note that if the information is not available with SEBI, there is no mandate to transfer the application of the appellant to the concerned entity which is not a Public Authority under section 2(h) of the RTI Act, nor does SEBI have the obligation to collect or collate such non-available information from the concerned entity and then furnish it to the applicant. In this context, the Hon’ble Supreme Court of India in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors*, 2011 (8) SCC 497 (Judgment dated August 9, 2011) held that “The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.”*

6. 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 1, 2023

B RAJENDRAN

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