

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

Appeal No. 5706 of 2023

Dipanshu Sehrawat	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated Nil (received by SEBI on April 05, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 04, 2023, responded to the application filed by the appellant. The appellant filed an appeal dated Nil (received by the Office of Appellate Authority on June 05, 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. **Queries in the application-** The appellant, vide his application, sought the information regarding:
 1. *What is procedure to transfer the shares, which are in material (physical) form, held by a trust which has been dissolved, in the name of the original beneficiary for which the trust was formed?*
 2. *If any Application is to be filed within the Hon’ble Court, then under which Act and Section it must be filed?*
 3. *Any other suitable information regarding the issue mentioned in point 1.*
3. The respondent, in response to the aforesaid queries, informed that the queries are in the nature of seeking guidance/clarification/opinion and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. The respondent also advised the appellant to approach the issuer company/Register and share Transfer Agent of such issuer company for seeking guidance with respect to the queries.
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*, submitted that the respondent erred in not providing the requested information and deemed the same as guidance/

clarification/ opinion. The appellant also stated that the information clearly comes under the purview of Section 2(f) of the RTI Act as the section clearly states that an “opinion” comes under “information”.

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/guidance/opinion from the respondent with respect to the procedure for transfer of shares held in physical form. The queries also appear to be situational queries. In my opinion, the CPIO is not supposed to provide clarification/opinion; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein the Hon’ble CIC observed that “7. *The Commission, after bearing 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/advice 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.*” Further, In the context of seeking replies to situational queries, 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 said queries cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act. Accordingly, I do not find any deficiency in the response.

6. Further, the appellant, in his appeal, *inter alia*, submitted that “opinion” comes under the purview of “information” as defined in section 2(f) of the RTI Act. In this regard, I note that 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.
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: July 04, 2023

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