

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

Appeal No. 6183 of 2024

	:	Appellant
Deepak Kumar		
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated July 15, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 24, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00237) dated September 30, 2024.
2. I note that under Section 19(1) of the RTI Act, an aggrieved person may prefer the first appeal within thirty days from the receipt of the response from the CPIO of the concerned public authority. In the instant case, the impugned response from the respondent is dated July 24, 2024. The appellant, therefore, should have filed the first appeal on or before expiry of thirty days from the date of receipt of the said response. As noted above, the appellant’s first appeal is filed on September 30, 2024. The first appeal has been made after the last date permissible under the RTI Act. The appellant neither made a request for condoning the said delay in filing the appeal nor made any submission explaining the reasons which caused the delay. Considering the absence of a request for condoning the delay and any valid reason that prevented the appellant from filing the appeal in time, I consider this appeal as time barred and hence, liable to be dismissed on that count.
3. Notwithstanding the above observation, I am considering the appeal on merit. I have perused the application and the appeal and find that the matter can be decided based on the material available on record.

4. **Request in the application** - The appellant, vide his application dated July 15, 2024 sought the following information
- 1) *How many victim investors of PACL company scam have been identified?*
 - 2) *Out of the people who had deposited money in this company, how many have been refunded their money?*
 - 3) *When did the PACL company scam take place and how much amount has been collected by the concerned department from the said company?*
 - 4) *What is the procedure for the victim investors of PACL scam to get their deposited money back?*
 - 5) *What reasons for PACL scam were found out by the concerned department after investigation?*
 - 6) *What improvements have been made by the concerned department to prevent such an incident from happening again in future?*
 - 7) *What and under which rules were the persons responsible for PACL scam punished?*
5. **Reply of the Respondent** - The respondent, in response to the application, informed that the information sought is not available with Securities and Exchange Board of India (hereinafter referred to as “SEBI”). Further, the respondent informed that Justice (Retd.) R. M. Lodha Committee was constituted by an order dated February 02, 2016, passed by the Hon’ble Supreme Court of India and that the same is not a Public Authority within the meaning under section 2(h) of the RTI Act. Hence, the said Committee would not fall within the purview of the said Act. The respondent provided the link for accessing the details of the Committee, for further communication. The respondent also provided the links for accessing the details with respect to Public Notices, Press Releases, Status Report and FAQs etc. related to PACL matter.
6. **Ground of appeal** – The appellant has filed the appeal on the ground that he was refused access to information requested.
7. I have perused the aforesaid queries and the response provided thereto. With respect to request nos. 1-4 of the application, I concur with the response of the respondent the information sought 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 Supreme Court of India in *Central Board of Secondary Education & Anr. vs Aditya Bandopadhyay & Ors* (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.” Accordingly, I do not find any deficiency in the response of the respondent. Notwithstanding the above, I note that the respondent has provided the links for accessing the contact details of the Committee, Status Reports, FAQs, Press Releases and Public Notices pertaining to the matter of PACL Ltd., which are already available in the public domain. The appellant may be guided accordingly.

8. However, with respect to request nos. 5 -7 of the application, I find that same has not been adequately addressed. In my view, the respondent was obliged to ascertain availability of the requested information with SEBI and whether the same may be provided to the appellant in accordance with the provisions of the RTI Act. Accordingly, it would be appropriate to remit the said requests for reconsideration.
9. Considering the above observations, I remit the application to the respondent for *de novo* consideration of request nos. 5 -7 of the application and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.
10. The Appeal is accordingly disposed of.

Place: Mumbai

Date: October 25, 2024

RUCHI CHOJER

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