

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

Appeal No. 5802 of 2023

Atul Chakma	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 17, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (hereinafter referred to as “**RTI Act**”). The respondent, by a letter dated September 20, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00198) dated September 20, 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, in his application dated September 17, 2023, has sought information regarding a company called ONPASSIVE, which claims to be a Multi- Level Marketing (hereinafter referred to as “**MLM**”) company. The appellant has, inter alia, sought information regarding the legal status of the said company in India, whether registered in India, whether it is illegal or not registered in India, what action has been taken against the company and if it has violated any provisions of Indian law, etc.
3. **Reply of the Respondent-** The respondent, in response to the queries replied vide letter dated September 20, 2023 and, *inter alia*, informed that the activities of MLM companies fall under the purview of the respective State Governments. Hence, Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) has no information to provide.
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 has submitted as follows:

“I have asked for information about ONPASSIVE Company, a Dubai based company which claim to be MLM company but in reply onpassive name is missing. So is Onpassive company a legal in India or registered with SEBI or any other agencies?”

5. I have perused the requests made by the appellant and the response provided by the respondent. I note that the appellant in his application is seeking information about a company called “ONPASSIVE”. The appellant states that the said company claims to be a MLM company. I note that respondent in its response has stated that the activities of MLM companies fall under the purview of the respected state governments. Hence, SEBI has no information. In this regard, I concur with response of the respondent as MLM activities are covered under Prize Chits and Money Circulation Scheme (Banning) Act, 1978, which falls under the purview of State Governments. I note that the respondent can only provide information that is available in the records. In this regard, 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. Further, I note that the appellant in his appeal has sought the following information regarding the said company: *“So is Onpassive company is legal in India or registered with SEBI or any other agencies?”* I note that the appellant in his appeal, is now seeking a new information pertaining to the said company’s registration status with SEBI. 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.

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: October 10, 2023

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