

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

Appeal No. 6318 of 2025

Manoj Agarwal : Appellant
Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated January 16, 2025 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated February 11, 2025, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/25/00033) dated February 11, 2025. 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, in his application dated January 16, 2025, sought the following information:

“I had filed a complaint with the PGPMO portal marked CONFIDENTIAL. The reference number given by the PGPMO was PGPMO/E/2024/000XXX dated 11/1,2024. Even though I had marked my complaint as Confidential as a whistle blower but my identity was disclosed by SEBI to Capital Corporate Venture Pvt Ltd (CCV) Category 1 Merchant Banker, against whom the complaint was made for violating various SEBI Rules and Regulations. As a result CCV has filed a defamation suit with the Hon’ble High Court Bombay. I request SEBI to urgently provide me with the following information regarding the enquiry action taken on the basis of my complaint :

- 1. Was any enquiry initiated based on my complaint?*
- 2. If yes is the enquiry still ongoing or has concluded?*
- 3. If ongoing then what is the status?*
- 4. Which all Rules and Regulations have been flouted? Pl provide details*
- 5. What action has been taken? Pl provide details”*

3. **Reply of the Respondent** - The respondent, in response to query nos. 1-5 in the application, informed that the appellant's queries are in the nature of seeking clarification/opinion. Accordingly, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act. The respondent also informed that SEBI conducts examinations and investigations confidentially in a holistic manner. SEBI will neither confirm nor deny the existence of any investigation. SEBI conducts investigation to examine alleged or suspected violations of laws and Regulations related to securities market. Post investigation, whenever violations are established, appropriate enforcement actions are taken under the provisions of the SEBI Act, 1992 and Regulations framed thereunder which culminate in the issuance of Orders. These orders are available in public domain and can be accessed from the SEBI website under the head: Enforcement.
4. **Ground of appeal** – The appellant, in his appeal, has submitted that he was refused access to the information requested.
5. I have perused the application and the response provided thereto. On consideration, I concur with the response of the respondent that the appellant's queries are in the nature of seeking clarifications/opinion. I find that the said queries cannot be construed as seeking 'information' as defined under section 2(f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or opinion under the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon'ble Central Information Commission (CIC) observed that “7. The Commission, after hearing 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/ advices 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.”
6. Further, I note that the respondent has neither confirmed nor denied existence of examination or investigation. In this context, I note that the rationale for neither confirming nor denying existence of any examination/investigation was relied upon by SEBI before the Hon'ble CIC in *Arun Damodar Savant vs. CPIO, SEBI* (order dated September 26, 2018 in Appeal No. CIC/SEBIH/A/2017/ 137139/BJ) and *Anju Sharma vs. CPIO, SEBI* (order dated September 28, 2020 in Appeal No. CIC/SEBIE/A/2019/101914).

The Hon'ble CIC, in the said matters, accepted the submissions and refused to intervene in the response of the CPIO. The Hon'ble CIC in the matter of *Anju Sharma vs. CPIO, SEBI* has acknowledged that *“disclosure of existence or non-existence of any investigation/examination of a particular matter would impede the process of investigation/prosecution as well as it has commercial bearing on the competitive position of third party(s) in the highly competitive capital market(s).”* I find that the legal issues involved in the present case are squarely covered in the CIC orders mentioned above. Further, I note that information regarding any regulatory action taken by SEBI/penalty imposed against entities, would be available on the website of SEBI. Accordingly, I do not find any deficiency in the response of the respondent.

7. In view of these observations, I find that the application has been adequately addressed and no further interference of this forum is warranted at this stage. The appeal is accordingly dismissed.

Place: Mumbai

Date: March 10, , 2025

RUCHI CHOJER

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