

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

Appeal No. 5770 of 2023

Nitin Goel	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application (Reg. No. SEBIH/R/P/23/00221) dated June 19, 2023 (received by SEBI on June 22, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 20, 2023, responded to the application filed by the appellant. The appellant filed an appeal dated July 31, 2023 (received by the Office of Appellate Authority on August 03, 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. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent with respect to query numbers A-1, A-2 and A-3 of the application. In view of the submissions made by the appellant in his appeal, I am only dealing with the said queries and the response provided thereto, in the following paragraphs.
3. **Query numbers A-1 and A-2-** The appellant, in his application, referred to paragraphs 8 and 9 of a SEBI word file available on the internet. The appellant also provided the link of the document and reproduced the said paragraphs in his application which pertains to FAQs relating to trading in shares of company that is suspended and delisted. Vide query number A-1, the appellant sought copy of the document and its file notes on the basis of which subject document/ word file was published on the SEBI website. Vide query number A-2, the appellant sought copy of document from where paras 8 and 9 are extracted.
4. The respondent, in response to the aforesaid queries, informed that the information sought is relating to a FAQ titled “Common Queries of Investors” published by SEBI in the year 2017 (as observed from the link of the attachment provided in the application). The respondent informed that the FAQs

were issued to address the common queries of investors in various areas i.e. primary market, secondary market, mutual fund etc. and the same are generic in nature. Further, the same was issued on the basis of common understanding, to address the queries of the investors at large. The respondent also stated that the copy of document and file notes related to FAQs is exempt from disclosure under section 8(1)(a) and 8(1)(j) of the RTI Act as the same pertains to internal functioning of SEBI and is strategic in nature. Further, the information relates to personal information, the disclosure of which has no relationship to any public activity or interest. Additionally, the respondent mentioned that the grounds of delisting as mentioned in the paragraph 9 of the said FAQ have been specified in the SEBI (Delisting of Equity Shares) Regulations, 2021. The respondent also provided the link for accessing the said regulations. The appellant, in his appeal, *inter alia*, submitted that the document/ information is not supplied. The appellant also submitted that the response of the PIO is absurd, mechanical and made with malafide intent.

5. I have perused the queries and the response provided thereto. I note that the respondent has categorically stated that the FAQs were generic in nature and were issued on the basis of common understanding, to address the queries of the investors at large. I also note that the respondent has denied to provide copy of document and file notes related to FAQs, under section 8(1)(a) and 8(1)(j) of the RTI Act. On consideration, I agree with the response of the respondent that requested information pertains to internal functioning of SEBI and the same is strategic in nature. In view of the same, the requested information will fall within the exemption offered under section 8(1)(a) of the RTI Act.
6. **Query number A-3-** The appellant, vide query number A-3, *inter alia*, sought copy of procedure referred to by SEBI in subject FAQ how to “off market transfer” so that the appellant may encash the value of his shares.
7. The respondent, in response to the query, informed that the procedure for off market transfers has been provided by Depositories. The respondent also provided the link for accessing the same.
8. I have perused the query and the response provided thereto. On consideration, I find that the query is more in the nature of seeking clarification from the respondent. I note that the respondent 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. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) where similar

information was sought by the appellant. The Hon'ble CIC, in the said matter, observe 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/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.*” In view of these observations, I find that the said query cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act.

9. Notwithstanding the above, I note that the respondent has guided the appellant to access the relevant procedure for off market transfers, which is available in the public domain. Accordingly, I do not find any deficiency in the response.
10. Further, on perusal of the appeal, it appears that the appellant requested to initiate penal action against the respondent under the RTI Act. In this regard, I note that as per Section 20(1) and 20(2) of the RTI Act, the Central Information Commission or the State Information Commission has the powers to impose a penalty or recommend disciplinary action against the Central Public Information Officer or the State Public Information Officer, while deciding on a complaint or a second appeal. Hence, I find that this request is beyond the purview of the First Appellate Authority, SEBI.
11. 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

ANAND BAIWAR

Date: September 01, 2023

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