

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

Appeal No. 5485 of 2022

Sudhakar : Appellant

Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

The appellant had filed an application dated October 19, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated November 10, 2022, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/22/00640) dated November 11, 2022. 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.

1. **Queries in the application** –The appellant, vide his application dated October 19, 2022, sought the following information:

1. Please provide me the information based on the records, documents and circulars with the SEBI to the CPIO, who will inherit the unit holder units or amount at the event of unit holder death if valid single nomination exist in the mutual fund portfolio.

2. And give me information with the records, documents and circulars of SEBI to the CPIO of SEBI as per Indian law, if nominee transferred the units for them and got redemption after death of unit holder for mutual fund units, and nominee is also a one of the legal heir for unit holder, nominee is the final absolute owner for that amount or legal heirs of unit holder can claim their share from nominee from court.

3. Provide me the documents showing that who is the final absolute owner for mutual fund units after death of unit holder.

2. The respondent, in response to the aforesaid queries, informed that the queries are in the nature of seeking clarification/opinion and accordingly, the same cannot be construed as seeking “information”, as define under section 2(f) of the RTI Act. However, the respondent advised the appellant to refer to the provisions of the SEBI (Mutual Funds) Regulations, 1996 and the Circulars issued by SEBI regarding requirements of

nominations. The respondent also provided the links for accessing the said Regulations and SEBI Circulars available on the SEBI website.

3. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. The appellant, in his appeal, *inter alia*, submitted that he had not sought the respondent's opinion or clarification. The appellant clarified that his query is about the Indian applicable law.
4. I have perused the queries and the response provided thereto. On consideration, I find that the queries are in the nature of seeking clarification/ opinion from the respondent. The queries also appear to be situational queries. I note that the respondent is not supposed to create information; or to interpret information; or to furnish clarification to the appellant under the ambit of the RTI Act. In this context, 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 respondent did not have any obligation to provide such clarification/opinion with respect to situational queries, under the RTI Act. Accordingly, I do not find any deficiency in the response.
5. Notwithstanding the above, I note that the respondent has guided the appellant to access the relevant Regulations and SEBI Circulars which are already available in the public domain. The appellant may be guided accordingly.
6. 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: December 07, 2022

ANAND BAIWAR

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