

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

Appeal No. 5996 of 2024

Mohammad Yousuf Vora	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated April 22, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated April 26, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00088) dated April 29, 2024. 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. **Requests in the application** –The appellant, vide his application dated April 22, 2024, sought the following information:

“I am writing to you as a retail investor seeking clarification on certain aspects of Securities and Exchange Board of India rules and regulations pertaining to investment advisory services I would appreciate it if you could provide me with information on the following matters

- 1 Is it legal for an unregistered individual to provide buy and sell calls as a trading recommendation*
- 2 What potential consequences could an unregistered person face for acting as a registered investment adviser (RIA) and providing buy and sell calls*
- 3 What are the criminal charges associated with manipulating profit and loss statements of securities or derivatives? Can this be considered financial fraud?*
- 4 If a person deliberately avoids using terms like buy and sell to evade potential legal consequences and instead opts for phrases like target 123 while discussing support and resistance levels, the question arises: does such communication still constitute a buy or sell recommendation under the law? Consider this scenario: he posts daily videos on the market, advising viewers on what to trade tomorrow and at which levels to buy and sell. Although he tries to steer clear of explicit terms to*

avoid legal scrutiny, the underlying intent of his daily postings is unmistakably geared towards prompting viewers to engage in trading, especially at the levels he suggests

5 If an unregistered investment adviser uses platforms like YouTube or Telegram to provide buy and sell calls, and if a complainant provides proper evidence, can their channels be removed from that platform for noncompliance with SEBI Your prompt response to this matter would be greatly appreciated. Thank you for your attention to this request. Please feel free to contact me if you require any further information or clarification.”

3. **Reply of the Respondent** - The respondent, in response to aforesaid requests informed that the information sought 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, 2005.
4. However, the respondent informed the appellant to refer to SEBI (Research Analysts) Regulations, 2014/SEBI (Investment Advisers) Regulations, 2013 and Circulars / Master Circulars / Guidelines issued thereof. Additionally, the respondent informed the appellant to refer to Frequently Asked Questions (FAQs) on SEBI (Research Analysts) Regulations, 2014/ SEBI (Investment Advisers) Regulations 2013. The respondent provided the paths to access the aforesaid information on SEBI website.
5. I have perused the aforesaid request and the response provided thereto. On consideration, I concur with the response of the respondent that the requests of the appellant are in the nature of seeking clarification/opinion from the respondent. Further, I note that the appellant, in his appeal, has himself provided possible responses to his request in the instant application and has requested that his said responses may be verified/ confirmed by SEBI. It is understood that the respondent is not supposed to create information; or to interpret information; or to furnish clarification/ confirmation to the appellant under the ambit of the RTI Act. I find that the said request 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 confirmation 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 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/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” Accordingly, I do not find any deficiency in the response.

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: May 9, 2024

B RAJENDRAN

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