

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

Appeal No. 5882 of 2024

Nilesh Jain : Appellant
Vs
CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated September 22, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 16, 2023 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00259) dated December 27, 2023.
2. I note that under Section 19(1) of the RTI Act, an aggrieved person may prefer the first appeal within thirty days from the receipt of the response from the CPIO of the concerned public authority. In the instant case, the impugned response from the respondent is dated October 16, 2023. The first appeal has been made after the last date permissible under the RTI Act. The appellant, in his application for condonation of delay, stated that the delay was due to him being unwell. Considering the submissions made by the appellant, in his appeal, the delay in filing the extant appeal is condoned. Further, 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.
3. **Requests made in the application** –The appellant, vide his application dated September 22, 2023, sought the following information regarding SME listing:

- “1) Please inform whether PMO has issued any informal guidance to SEBI / stock exchanges for avoiding public issues of less than 2 crores*
- 2) Since stock exchanges are not interested in processing small IPOs, please inform whether PMO asked SEBI to change their eligibility criteria*
- 3) There are dozens of companies on BSE alone which applications are not processed after filing over last few years and so, they wasted huge amount. Since stock exchanges are levying huge penalties on listed companies for minor non-compliances, please advise whether they are expected to reimburse costs borne by small companies which plan to get listed.*
- 4) Please share guidelines issued by PMO to stop listing of small companies which plan to raise Rs 2 crores or less.”*

4. **Reply of the Respondent** - The respondent, in response to request nos. 1, 2 and 3, informed that the information sought is in the nature of seeking clarification. Accordingly, the same cannot be construed as “Information”, as defined u/s 2(f) of the RTI Act, 2005. Further, in response to the request no. 4, the respondent informed that the information sought is not available with SEBI.
5. **Ground of appeal-** The appellant has filed the appeal on the ground that he has been refused access to information requested.
6. I have perused the application and the response provided thereto. On consideration, as regard request nos. 1, 2 and 3 of the application, I concur with the response of the respondent that the requests are in the nature of seeking clarification/opinion from the respondent. It is understood 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. I find that the said requests 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, reference is made to the matter of *Vineet Pandey vs. CPIO, United India Insurance Company Limited* (Judgment dated January 21, 2021), wherein similar observations were made by the Hon’ble Central Information Commission (hereinafter referred to as “**CIC**”). Further, in the matter of *Shri Shantaram Walavalkar vs. CPIO, SEBI* (Decision dated January 17, 2013), I note that the Hon’ble CIC held: “... *we would also like to observe that, under the Right to Information (RTI) Act, the citizen has the responsibility to specify the exact information he wants; he is not supposed to seek any opinion or comments or clarifications or interpretations from the CPIO...*”. Accordingly, I do not find any deficiency in the response.
7. As regard request no. 4 of the application, I note that the respondent has categorically stated that the requested information is not available with SEBI. I note that the respondent can only provide information that is available in the records. On consideration, I find that the application has been adequately addressed and I do not find any deficiency in the response. In this context, I note that the Hon’ble CIC, in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: “... *if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given.*”
8. In view of the above observations, I find that there is no need to interfere with the decision of the respondent. However, in regard to request no. 4, I note that the appellant, in his appeal, has requested that if the respondent does not have the details then his application may be referred to PMO for getting

the desired information. Accordingly, I hereby direct the respondent to forward the said application to the concerned public authority and intimate the appellant regarding the same, within 5 working days from the date of receipt of this order.

9. The Appeal is accordingly disposed of.

Place: Mumbai

Date: January 18, 2024

B RAJENDRAN

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