

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

Appeal No. 5747 of 2023

Atul Sharma	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 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 July 17 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00166) dated July 22, 2023. 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 made in the application** –The appellant, vide his application dated June 22, 2023, *inter alia*, requested to provide information regarding his emails/ complaints sent to SMC Securities Limited.
3. The respondent, in response to the aforesaid application, informed that the requested information pertains to the email sent by the appellant to the broker. Hence, the requested information is not available with SEBI.
4. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false.
5. I have perused the application and the response provided thereto. I note that the appellant has sought information pertaining to his emails/complaints sent to a broker (SMC Securities Limited). I note that the respondent has clearly informed that the requested information is not available with SEBI. It is an established law that the information sought for in order to be disclosable under the RTI Act, must be existent and available in the records. In this regard, I note that the Hon’ble Supreme Court of India, in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011) held that “*The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of section*

2 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.” In view of these observations, I do not find any deficiency in the response provided by the respondent.

6. The appellant, in his appeal, requested to transfer his application as per Section 6 of the RTI Act. The appellant has also requested to send him information at PIO registered postal address. I note that the entity referred by the appellant is not a public authority within the meaning of section 2(h) of the RTI Act. Accordingly, the application cannot be transferred under section 6(3) of the RTI Act. Further, from the application, it appears that the appellant has grievance against the entity referred by him. In this regard, the appellant may lodge complaint on the SCORES portal of SEBI, which enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online from the SCORES website. The link for accessing the same is provided below-

<https://www.scores.gov.in>

7. 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: August 18, 2023

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