

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

Appeal No. 4899 of 2022

Amit Gupta	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated February 02, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated March 03, 2022 responded to the application filed by the appellant. The appellant filed an appeal dated March 30, 2022, against the said response dated March 03, 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.
2. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. On perusal of the appeal, it appears that the appellant is not satisfied with query numbers 1, 2, 3 and 4. In view of the submissions made by the appellant, I am only dealing with the said queries and the response provided thereto, in this appeal.
3. **Query number 1-** The appellant, vide query number 1 of this application, sought the following information with respect to IAP sessions conducted from November 01, 2020 to January 31, 2022 by the appellant:

“1. Provide complete details (including full details captured by CISCO WEBEX Training Platform) like the total number of participants (attendees), names, attendees profession title, age, location duration spent by attendees during the session.”
4. The respondent, in response to the aforesaid query, informed that the requested information is exempt from disclosure under Section 8(1)(j) of the RTI Act as the same relates to personal information, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individual. The appellant, in his appeal, *inter alia*, submitted that the

requested information has no relation with personal information and that there is no reason for denial or exemption of the information.

5. I have perused the query raised by the appellant in his application and the response provided I note that the respondent had invoked the provisions of section 8(1)(j) of the RTI Act to deny information to the appellant. In this context, reference is made to the judgment of the Hon'ble Supreme Court of India in the matter of *Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal* in Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010 wherein the import of "personal information" envisaged under Section 8(1)(j) of RTI Act has been exemplified in the context of earlier ratios laid down by the same Court in other matter(s). The Hon'ble Supreme Court held that *"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive..."* In view of the same, I find that query number 1 (except first part of the query seeking total number of participants), pertains to personal information of other entities, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individual. Accordingly, I do not find any deficiency in the response.
6. With respect to the first part of query number 1 pertaining to "total number of participants (attendees)", I note that the respondent has already provided the relevant information at Annexure A of the response. In view of the same, no further intervention is warranted.
7. **Query numbers 2 and 3-** The appellant, vide query numbers 2 and 3, sought the following

"2. Provide each session wise complete details pertaining to LAP claim reimbursement raised by trainer Mr. Amit Gupta (SEBI/...../1, Location- Thane) date, each claim settlement date (credited fund in a bank account), LAP claim rejection intimation date, each session wise reason of claim rejection etc.

3. Details of each complaint filed, complaints resolved and complaints pending action status of the complaint filed/ sent by email id- analystamit@gmail.com To: SMARTs@SEBI.GOV.IN and Cc:

rohanm@sebi.gov.in during 01DEC2020 to 31MAR2022 in the following format: Complaint subject line, date of the received complaint, the employee responsible to deal with the complaint, resolution status, etc.”

8. The respondent, in response to the aforesaid queries, informed that the requested information is not readily available and collating the same for providing response to the queries would disproportionately divert the resources of the public authority in terms of Section 7(9) of the RTI Act. The appellant, in his appeal, *inter alia*, submitted that he has the right to know the information about public servant's work.
9. I have perused the queries and the response provided thereto. I note that the respondent would be required to analyse a substantial amount of data pertaining to the Securities Market Trainer, which is voluminous in nature. Analysing and collating the information would disproportionately divert the resources of SEBI and would defeat 'the practical regime of right to information' as envisaged in the preamble of the RTI Act. In this regard, I note that the Hon'ble Delhi High Court in the case of *The Registrar Supreme Court of India v. Commodore Lokesh K. Batra & Ors.*, (Order dated January 07, 2016) held that “15. On a combined reading of Section 4(1)(a) and Section 2(i), it appears to us that the requirement is only to maintain the records in a manner which facilitates the right to information under the Act. As already noticed above, 'right to information' under Section 2(j) means only the right to information which is held by any public authority. We do not find any other provision under the Act under which a direction can be issued to the public authority to collate the information in the manner in which is sought by the applicant.” While relying on the said judgement, the Hon'ble CIC, in the matter of *Bimal Kishore vs. CPIO, State Bank of India* (Order dated March 28, 2018), held that “..... the respondent cannot be asked to collate information in the manner in which it is sought by the appellant/ complainant. Hence, no further intervention of the Commission is required in the abovementioned matters.” In view of the above observations and applicability of section 7 (9) of the RTI Act, I find that the respondent is not obliged to provide the information sought by the appellant. Accordingly, I do not find any deficiency in the response.
10. **Query number 4-** The appellant, vide query number 4 of the application, sought the following information-

“4. Provide the minimum number of participants are required in the LAP session for full claim settlement and clubbed claim settlement.”
11. The respondent, in response to the aforesaid query, advised the appellant to refer to clause 10 v) and 12 ii) of the operational guidelines. The respondent also provided the link for accessing the same. The appellant, in his appeal, requested to provide the response in writing instead of sharing the weblink.

12. I have perused the query and the response provided thereto. On consideration, I find that the answer to the query can be found out by the appellant by accessing the information available on the SEBI Investor website, which is in the public domain. I note that Hon'ble CIC in *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007) held that *"..... unless an information is exclusively held and controlled by a public authority, that information cannot be said to be an information accessible under the RTI Act. Inferentially it would mean that once a certain information is placed in the public domain accessible to the citizens either freely, or on payment of a pre-determined price, that information cannot be said to be 'held' or 'under the control of' the public authority and, thus would cease to be an information accessible under the RTI Act."* In view of these observations, I find that the respondent cannot be obliged to provide response to such request for information, as made by the appellant through his application.
13. Notwithstanding the same, I find that the respondent has guided the appellant to access the relevant information which is available on the SEBI Investor website. In my view, the query has been adequately addressed. Accordingly, I do not find any deficiency in the response.
14. The appellant, in his appeal, sought the *"document/s where participants spend 40 minutes then it will be counted for SMART's claim reimbursement in an LAP session criteria is mentioned."* I find that this query were raised by the appellant for the first time in this appeal. As held by the Hon'ble CIC in *Harish Prasad Divedi vs. Bharat Petroleum Corporation Limited* (decided on January 28, 2014), an information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage. Accordingly, I find that the said query does not warrant consideration at this stage.
15. 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: April 29, 2022

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