

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

Appeal No. 6143 of 2024

Rautesh Kumar Ad	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 13, 2024 (received by SEBI on June 18, 2024) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 11, 2024, responded to the application filed by the appellant. The appellant filed an appeal dated August 26, 2024 (received by the Office of Appellate Authority on September 03, 2024).
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 July 11, 2024. The appellant, therefore, should have filed the first appeal on or before expiry of thirty days from the date of receipt of the said response. As noted above, the appellant’s first appeal is filed on August 26, 2024. The first appeal has been made after the last date permissible under the RTI Act. The appellant in his appeal has made a request for condoning the said delay in filing the appeal. 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. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant, in his appeal, has raised dissatisfaction only with respect to the replies to request nos. 1B, 2 and 4 of his application.
4. **Request no. 1B and 2 of application** - The appellant, vide his request no. 1 B of the application, *inter alia*, sought information as to whether two recovery certificates pertaining to amount due to him is available at office of District Magistrate, Mathura or not. The appellant, vide request no. 2 of his

application, *inter alia*, sought information regarding action taken by District Magistrate, Mathura with respect to certain letters sent by him to their office.

5. **Reply of the Respondent** - The respondent, in response to request nos. 1(b) and 2 informed that information sought is not available with SEBI.
6. I have perused the aforesaid requests and the response provided thereto. 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. Further, on perusal of the appeal, it appears that the appellant expects the respondent to collect the requested information from District Magistrate, Mathura and provide it to him. In this context, 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. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 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.*" Accordingly, I do not find any deficiency in the response of the respondent. Further, I note that the appellant, in his appeal has, *inter alia*, submitted that if SEBI does not have the information, his application should have been transferred to concerned Public Authority under RTI Act. In this regard, I note that the subject matter of the application pertains to SEBI as seen from reply of the respondent to request no. 1(a) and 3 of the application. Hence, the respondent has responded to all the queries of the application. Accordingly, no further intervention of this forum is warranted.
7. **Request no. 4 of the application** – The appellant, vide his request no. 4 of the application, *inter alia*, sought information as to why the appellant should not appeal to the High Court for the irreparable loss suffered by him due to delay in recovery proceedings by SEBI.
8. **Reply of the Respondent** – The respondent, in response to request no. 4, informed that the information sought are 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.

9. I have perused the aforesaid request and the response provided thereto. With respect to request no. number 4, I concur with the response of the respondent that the said request is more in the nature of seeking clarification/confirmation/opinion from the respondent. I note that the respondent 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. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) where similar information was sought by the appellant. The Hon'ble CIC, in the said matter, observe 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.*” In view of these observations, I find that the said queries cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act.
10. 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: October 01, 2024

RUCHI CHOJER

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