

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

Appeal No. 6074 of 2024

Amar Patil	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 24, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 04, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00145) dated July 04, 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. **Request in the application** - The appellant, vide his application dated June 24, 2024, sought the following information:

“This is an application under the Right to Information Act, 2005 seeking information related to the following guideline mentioned in SEBI circular(Circular No.: SEBI/HO/MIRSD/DoP/P/CIR/2022/101, dated July 27, 2022): The settlement shall be done by the trading member after considering the End of the day (EOD) obligation of funds. Specifically, As a Investor/ Client I would like to request the following information:

- 1 What is the rationale and purpose behind this guideline? What problem is it trying to solve?*
- 2 Detailed Explanation: Please provide a comprehensive explanation of how the quarterly settlement of running account of client funds is carried out by the trading member, taking into account the EOD obligation of funds on the quarterly settlement day.*
- 3 Operational Process: Could you elucidate the operational process followed by TMs during the quarterly settlement process? Specifically, how do they calculate and reconcile the EOD obligations on the quarterly settlement day?*
- 4 Does the guideline states that TMs are not supposed to perform quarterly settlements during market hours on the quarterly settlement day? Are they required to wait for the the end of the day balance of funds in clients account and closing of the market for the quarterly settlement process?*
- 5 On the quarterly settlement day if a TM performs the quarterly settlement during market hours and the client receives the funds on the next day of quarterly settlement, resulting in frozen clients funds and unavailability of funds for trading during the rest of the day on the the quarterly settlement day, who bears the responsibility for the client not being able to trade on the quarterly settlement day due to the unavailability of funds because of quarterly settlement during market hours?*
- 6 Are there any examples or case studies of how this guideline has been implemented by TMs?*

7 What are the consequences if a TM does not follow this guideline properly? What penalties or actions can SEBI take against non-compliant TMs? Has SEBI received any complaints or representations from investors or TMs regarding this guideline? If so, what are the key issues raised? Does SEBI plan to issue any further clarifications or FAQs to help TMs better understand and implement this guideline?”

3. **Reply of the Respondent** - The respondent, in response to the application, 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. Further, the respondent informed that, if any enforcement action is taken by SEBI against any intermediary, the same is available on SEBI website. The respondent provided the relevant path to access the same.
4. **Ground of appeal** - The appellant has filed the appeal on the ground that the information provided is incomplete, misleading and false information.
5. I have perused the aforesaid requests and the response provided thereto. On consideration, I find that the request of the appellant is in the nature of seeking clarification/opinion/explanation from the respondent. 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 explanation 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: July 29, 2024

RUCHI CHOJER

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