

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

Appeal No. 5582 of 2023

Manish Goel	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated January 16, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated February 03, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00031) dated February 03, 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. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. The appellant, in his appeal, submitted that the CPIO refused to provide information based on frivolous and unlawful reasons. In view of the submissions made by the appellant, I am dealing with the queries and the response provided thereto, in the following paragraphs.
3. **Query number 1-** The appellant, vide query number 1, sought the following information:

“(1) How many staff of SEBI is working in the capacity of a Judge as per definition of Judges (protection) Act 1985. Provide name and staff code of each of these employees.”
4. The respondent, in his response, stated “Nil” with respect to the aforesaid query.
5. I have perused the query and the response provided thereto. On consideration, I do not find any reason to disbelieve the response provided by the respondent. In my opinion, the respondent has adequately addressed the query by providing the information available with him. Accordingly, I do not find any deficiency in the response.
6. **Query number 2-** The appellant, vide query number 2, sought the following information-

“(2) How many staff of SEBI is working in the capacity of a Quasi Judicial Authority. Provide name and staff code of each of these employees.

(3) How many staff of SEBI is working in the Administrative capacity/ roles. Provide name and staff code of each of these employees.”

7. The respondent, in response to query number 2, informed that as per Section 15-I of the SEBI Act, 1992, the Board may appoint any officer, not below the rank of a Division Chief, to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty. The respondent also informed that the details of Division Chiefs (DGM and above) are available on the SEBI website. In response to query number 3, the respondent informed that the functions of various Departments/Divisions and details of staff members along with their posting, are available on the SEBI website. The respondent also provided the link for accessing the same.
8. I have perused the queries and the response provided by the respondent. On consideration, I find that the respondent has adequately addressed the queries by providing the information available with him. I note that the respondent also categorically informed that the details of staff members and their posting (including details of division chiefs i.e. DGM and above) are available on the SEBI website, which is in the public domain. Accordingly, no further intervention of this forum is warranted.
9. **Query numbers 4, 5, 6, 8, 9 and 10-** The appellant, vide query numbers 4, 5, 6, 8, 9 and 10, sought the following information-

“(4) Is the designation Executive Director in SEBI an administrative position or judicial position or quasi judicial position

(5) Is ED , SEBI working in SEBI in an administrative role or judicial role or quasi judicial role

(6) Does SEBI comply Article 50 of the Constitution and keeps the Executive and Judicial roles separate. Provide copy of SEBI document/policy etc which prescribes guidelines for this

(8) Can any employee of SEBI, other than Whole Time Member and Quasi Judicial Cell, pass a quasi judicial order.

(9) What is the purpose of constituting the Quasi Judicial Cell in SEBI. What are its functions .

(10) What is the mechanism for the general public to know as to which employee of Sebi is working in which capacity i.e. Executive, Judicial, Quasi Judicial.”

10. The respondent, in response to the aforesaid queries, informed that the queries are in the nature of seeking clarification/opinion and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act.
11. I have perused the queries and I find that the same are in the nature of seeking clarification/ 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/ advices 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 do not find any deficiency in the response.
12. **Query number 7-** The appellant, vide query number 7, sought the name and employee code of the members of the Quasi Judicial Cell of SEBI.
13. The respondent, in response to the aforesaid query, informed that the information sought is available on the SEBI website under the Directory of SEBI Employees. The respondent also provided the link for accessing the same.
14. I have perused the query and the response provided thereto. On consideration, I find that the respondent has adequately guided the appellant to access the requested information which is available in the public domain. Accordingly, no further intervention is warranted.
15. **Query number 11-** The appellant, vide query number 11, sought the following information-

“(11) In one order passed by Sebi against us on 18.11.2022 bearing no. ED/Mk/NRO/NRO/21306/2022-23, it was mentioned in para no. 18 and 38 that - Mr Manish

Kumar Goyal resigned from S.C.& Associates on 01.06.2006. Pls provide the supporting documents based on which the above statement was taken/based on. As per judgement of Honourable Supreme Court, SEBI will have to provide all those documents on which it relied upon while passing any order against anybody.”

16. The respondent, in response to the aforesaid query, informed that the query is in the nature of seeking clarification/ opinion and accordingly, the same cannot be construed as seeking “information” as defined under section 2(f) of the RTI Act. The respondent also informed that SEBI had passed an Order dated November 18, 2022 and corrigendum to order dated January 23, 2023 and that the same were served on the appellant. Further, it was informed that the orders had been passed after following principles of natural justice. The respondent also mentioned that a similar query has already been responded to by the respondent vide his letter dated January 12, 2023.
17. I have perused the query and the response provided thereto. I find that the query is in the nature of seeking clarification/ opinion from the respondent. Further, I note that the respondent has also informed regarding the response with respect to similar query which was already provided to the appellant. In view of the judgement discussed at paragraph 11 *supra*, I do not find any deficiency in the response.
18. 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: February 22, 2023

ANAND BAIWAR

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