

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

Appeal No. 6378 of 2025

Swadesh Kishore : Appellant

Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated April 10, 2025 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated April 24, 2025, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/25/00086) dated May 06, 2025. 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. **Queries in the application** - The appellant, in his application dated April 10, 2025, sought the following information:

“ 1. The complete list of bids received during the auction for GRSE for short delivery of 20/03/2025, including Bid prices and quantities quoted by each bidder (identity of bidders not required). Time of bid placement if available.

2. The accepted bids used for settlement Accepted bid prices and quantities used to fulfill my short delivery obligation. Basis of calculation of the average auction price of INR 1936.14

3. The highest, lowest, along with elaborated weighted average price of GRSE provided by the bidders on the auction day.

4. The highest, lowest, along with elaborated weighted average price of GRSE in the regular market on the auction day.

5. A copy of NSE or SEBI applicable guidelines/ rules/ circulars regarding Auction price determination for short delivery.

Any applicable cap or mechanism to prevent auction prices from significantly exceeding the market price. This information is sought to understand and verify the fairness of the auction settlement price, as it was significantly above the intraday high of the stock and caused considerable financial impact. Kindly provide this information electronically via email if possible.”

3. **Reply of the Respondent** –The respondent, in response to query nos. 1 to 4 in the application, informed that the information sought by the appellant is not maintained by SEBI in normal course of regulation of securities market and hence, the same is not available with SEBI.

The respondent, in response to query no. 5, informed that all guidelines/circulars issued by SEBI are available on SEBI website under the head “Legal”. The respondent also informed that the appellant can refer to the website of NSE for guidelines /circulars issued by them.

4. **Ground of appeal** – The appellant has filed the appeal on the ground that he was provided incomplete, misleading or false information.
5. I have perused the application and the response provided thereto. With regard to query nos. 1 to 4, I note that the respondent has categorically stated that the requested information is not maintained by SEBI in normal course of regulation of securities markets and hence, is not available with SEBI. I note that the respondent can only provide information that is available in the records. 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. 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.”* Further, I note that the Hon’ble Central Information Commission (hereinafter referred to as “**CIC**”) in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: *“... if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given.”* Accordingly, I do not find any deficiency in the response of the respondent.
6. Further, with regard to query no. 5, I note that respondent has stated circulars/guidelines issued by SEBI are available in public domain. Further, the respondent has appropriately guided the appellant to refer to NSE website, for the circulars/guidelines issued by NSE. In this context, the Hon’ble Delhi High Court, in the matter of *Registrar of Companies & Ors. Vs. Dharmendra Kumar Garg & Anr.* and the Hon’ble CIC in the matter of *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007), *inter alia*,

observed that if the relevant information is available in the public domain, the same cannot be said to be information held by the public authority and consequently, there is no obligation to provide such information to an applicant under the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent.

7. The appellant, in his appeal, has contended that If SEBI does not hold the information, it should have transferred the request to NSE under Section 6(3) of the RTI Act. In this regard, I note that as per the current position, NSE is not a Public Authority within the meaning under section 2(h) of the RTI Act. Hence, the same would not fall within the purview of RTI Act. On the context of applicability of the RTI Act to NSE, I note that the Hon'ble CIC, in the matter of *R S Malik vs. CPIO, SEBI and Another* (Order dated April 27, 2023) , observed that *"The Commission at the outset clarified during the hearing that the matter regarding applicability of the RTI Act, 2005 to National Stock Exchange of India Limited (NSE) is sub judice and has not attained finality. The applicability of the RTI Act, 2005 to NSE was affirmed by the Single Bench of the Hon'ble High Court of Delhi in National Stock Exchange v. Central Information Commission, W.P(C) 4748/2007 vide order dated 15.04.2010. However, the division bench of the Hon'ble High Court of Delhi, in National Stock Exchange v. Central Information Commission, LPA 315/2010 vide order dated 04.05.2010, stayed the aforementioned judgment which had interpreted NSE as a "public authority" under the RTI Act, 2005. Therefore, the Commission held that as per the current legal position, the NSE does not come under the purview of the RTI Act, 2005....."* Accordingly, I find that no further intervention of this forum is necessary in this regard.
8. 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: May 27, 2025

RUCHI CHOJER

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