

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

Appeal No. 5812 of 2023

Appeal No. 5813 of 2023

Mukesh Mehta	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed two applications (Reg. No. SEBIH/R/E/23/00834 and Reg. No. SEBIH/R/E/23/00835) on August 24, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (hereinafter referred to as “**RTI Act**”). W.r.t. application Reg. No. SEBIH/R/E/23/00834, the appellant had filed an appeal (Reg. No. SEBIH/A/E/23/00193) dated September 12, 2023. In this regard, vide Appellate Authority order dated October 6, 2023, it was observed that the response to the application Reg. No. SEBIH/R/E/23/00835 was inadvertently sent as the response to application Reg. No. SEBIH/R/E/23/00834 to the appellant, hence, the said appeal was disposed of as it could not be proceeded with the material available on record. However, it was left open to the appellant to file a fresh appeal as per law with respect to both his applications (Reg. No. SEBIH/R/E/23/00834 and Reg. No. SEBIH/R/E/23/00835). The appellant has now filed an appeal (Reg. No. SEBIH/A/E/23/00207) dated September 28, 2023 w.r.t. his application Reg. No. SEBIH/R/E/23/00835. On a close perusal of the said appeal, I note that the appellant has also referred to the content of his application Reg. No. SEBIH/R/E/23/00834 and has, inter alia, indicated his dissatisfaction with the response of the respondent to his aforesaid application. In light of the above, I am accordingly, taking up the appeal(s) w.r.t. both the applications filed by the appellant in this order. I have carefully considered the applications, the responses and the appeal(s) and find that the matter can be decided based on the material available on record.
2. **Requests in the application** – The appellant, vide his application (Reg. No. SEBIH/R/E/23/00834) dated August 24, 2023 sought the following information with respect to his various complaints filed with Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”), including complaints (ref no SEBIP /MH23 / 00....8 /1 and 00.....9 /1 and 00.....40 /1):

- “1. Details of all investigations carried out by SEBI in a Rs 80 lakhs fraud since the past 9 years and action taken report against Anand Rathie share and stock brokers.*
- 2. Communication between SEBI and NSE and Anand Rathie stock brokers*
- 3. Details of forensic audit, authenticity of multiple trades carried out by Anand Rathie brokers in FNO segment*
- 4. Details of action taken against National Stock Exchange for violation of FNO norms and excessive trading by Anand Rathie stock brokers beyond SEBI limits*
- 5. Action taken against NSDL depository for allowing debits of shares*
- 6. Money trail details of Rs 80 lakhs siphoned off by Anand Rathie from my demat account with a forged power of attorney*
- 6. Action taken against Anand Rathie commodities in the NSEL scam, various charges against the said broker.”*

3. The appellant, vide his application (Reg. No. SEBIH/R/E/23/00835) dated August 24, 2023 sought following information:

“In the matter of Anugraha Stock and Broking Ltd, SEBI registered stock brokers, kindly furnish the following information under the RTI Act

Details of the fraud committed by them, that led to their suspension

List of entities who were punished along with them

Under what sections of SEBI Act that they were punished, ,details of punishment and fines”

4. **Replies of the Respondent** - The respondent in response to application (Reg. No. SEBIH/R/E/23/00834) informed as follows:

“Reply to Query 1 and 2:

Any complaint received by SEBI is handled through SCORES portal. You are advised to check Action Taken History of complaints lodged by you on SCORES portal at <http://scores.gov.in>

Reply to Query 3:

Your query is not specific. Accordingly, the same cannot be construed as “Information”, as defined u/s 2(f) of the RTI Act, 2005.

Reply to Queries 4, 5 and 6:

You are informed that any enforcement action taken by SEBI is available on the SEBI website www.sebi.gov.in under the head “Head > Enforcement > Orders”.

Reply to Query 6:

The information sought by you is not maintained by SEBI in normal course of regulation of securities market. Hence, the same is not available with SEBI.”

5. The respondent in response to application (Reg. No. SEBIH/R/E/23/00835) informed as follows:

“Query raised by the applicant is not specific. However, NSE declared Anugrah Stock and Broking Pvt. Ltd. as a Defaulter on 26-Nov-2020. Subsequently, other stock exchanges have also declared aforesaid broker as a Defaulter. SEBI has passed multiple orders against Anugrah Stock and Broking Pvt. Ltd. and these orders are available on the SEBI website at www.sebi.gov.in under the heard “Home->Enforcement-> Orders”.”

6. **Ground of appeal-** The appellant has filed the appeal(s) on the ground that he has been refused access to information requested. Further, the appellant, in his appeal(s), has, *inter alia*, submitted that information sought from the respondent has to be provided to the Courts and Securities Appellate Tribunal. He has further submitted that *“Basic information as to whether forensic audit signature verification rejection of investigation needs to be provided to the court. no info has been provided”*.
7. W.r.t. application (Reg. No. SEBIH/R/E/23/00834), I have perused the query and the response provided thereto. I find that the appellant in his aforesaid application has made 7 requests pertaining to his complaints filed with SEBI. In response to request 1 & 2 of the aforesaid application, the respondent has, *inter alia*, informed that w.r.t. complaints filed with SEBI the Action Taken History of the complaints can be accessed by the complainants through SCORES portal. However, I note that appellant in request no. 1 of the application has sought *“Details of all investigations carried out by SEBI in a Rs 80 lakhs fraud since the past 9 years and action taken report against Anand Rathni share and stock brokers.”*. Hence, I find that the request No.1 has not been adequately addressed by the respondent and the same warrants reconsideration.
8. W.r.t. request No. 3 of the application, I concur with the response of the respondent that the information sought is not specific and hence cannot be construed as “information”, as defined u/s 2(f) of the RTI Act. In this context, I note that in the matter of *Sbri S. C. Sharma vs. CPIO, Securities and Exchange Board of India* (Decision dated August 30, 2012), the Hon’ble Central Information Commission held: *“Since the Appellant had not clearly stated what exact information he wanted, the CPIO could not have provided any specific information to him.”*
9. W.r.t. request Nos. 4, 5 & 7(the last request in the application, numbered as request no. 6) of the application, the appellant has, *inter alia*, sought details of action taken against NSE, NSDL and the Trading Member (hereinafter referred to as “**TM**”) in question. In this regard, the respondent has appropriately guided the appellant to access enforcement actions taken by SEBI, which are available on SEBI website.
10. W.r.t. request no. 6 of the application, 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. In this context, I note that the Hon'ble Central Information Commission (hereinafter referred to as "CIC"), in the matter of *Lakshminarayanan R vs. SEBI* (order dated February 09, 2023) observed that "*Keeping in view the facts of the case, the Commission observed that the information sought by the appellant regarding Central Depository Services Ltd. was not maintained by the respondent authority in the normal course of regulation of securities market. It is an established law that the information sought for in order to be disclosable under the RTI Act, 2005 must be existent and available in the records..... In the instant case, the desired information was not available in the records of the respondent authority...*" In view of these observations, I do not find any deficiency in the response of the respondent.

11. W.r.t. application (Reg. No. SEBIH/R/E/23/00835), I have perused the query and the response provided thereto. I find that the appellant has, *inter alia*, made the following requests in his application w.r.t. Anugrah Stock and Broking Pvt. Ltd.:

Request No. 1- Details of fraud committed by them, that lead to their suspension.

Request No. 2 - List of entities who were punished along with them.

Request No. 3 - Under what sections of SEBI Act were they punished. Details of punishment and fines.

12. On consideration, I find that while the respondent, in its response, has stated that the requests of the appellant are not specific, I note that the respondent has informed the appellant that the TM in question was declared as a Defaulter by NSE on November 26, 2020 and subsequently by other stock exchanges. The respondent has also informed that SEBI has passed multiple orders against the said TM and the same are available on SEBI website. I find that the respondent has already guided the appellant in detail to access the same. In my opinion, the aforesaid information adequately responds to request No. 1 and 3 of the application. In so far as request No. 2 of the application, I concur with the response of the respondent that the information sought is not specific. In this regard, I note that the Hon'ble CIC, in the matter of *Mr. T. V. Sundaresan vs. CPIO, Securities and Exchange Board of India* (Decision dated November 24, 2021), held: "*The framework of the RTI Act, 2005 expects that the information sought is specific and believed to be existing with the public authority in documented or material form as such; which can be shared with the appellant as per the provisions of the RTI Act. Answering to broad, multiple and general queries and presumptive documents that should have been generated as per the expectation of the appellant cannot be furnished under the provisions of the Act.*" In view of these observations, I find that the request no. 2 is not specific and the same does not indicate the particular document that the appellant wants to obtain from the respondent.

13. In view of the above observations, w.r.t. appeal pertaining to application (Reg. No. SEBIH/R/E/23/00834), I remit the application to the respondent for *de novo* consideration of Request no. 1 and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order. W.r.t. appeal pertaining to application (Reg. No. SEBIH/R/E/23/00835), I find that there is no need to interfere with the decision of the respondent. The Appeal is accordingly dismissed.

Place: Mumbai

Date: October 19, 2023

B RAJENDRAN

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