

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

Appeal No. 5712 of 2023

Shashi Mehrotra	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 28, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated June 09, 2023, responded to the application filed by the appellant. The appellant filed an appeal (SEBIH/A/E/23/00128) dated June 11, 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. **Queries in the application** –The appellant, in his application dated May 28, 2023, referred to certain contract notes. Further, the appellant, *inter alia*, sought information regarding name of account holder in which stock was credited, Demat Account number in which stock was credited and the date on which the stock was credited.
3. The respondent, in response to the aforesaid queries, informed that the information sought by the appellant is not maintained by SEBI in the normal course of regulation of securities market. Hence, the same is not available with SEBI.
4. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused.
5. I have perused the queries and the response provided thereto. I find that the respondent has categorically informed that the requested information is not maintained by SEBI in the normal course of regulation of securities market. I note that the requested information is not available on record. In this context, I note that the Hon’ble 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. The CPIO in his reply and written submissions has also sufficiently explained the reason for denial of information in the present case. Therefore, the denial is justified and upheld accordingly.” In view of these observations, I do not find any deficiency in the response.

6. Further, I note that the appellant, in his appeal, *inter alia*, requested to transfer the application under section 6(3) of the RTI Act or collect the information from NSE/BSE and provide the same to the appellant. 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.....*” Further, I am of the view that the respondent is expected to provide only that information which exists with the public authority when it receives an application under the RTI Act. The respondent has categorically stated in his response that the information sought was not available with SEBI. Accordingly, the respondent is not required to obtain such information for the sole purpose of providing the same to an applicant under the RTI Act.
7. 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 10, 2023

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