

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

Appeal No. 5883 of 2024

Tarun Agarwal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated December 08, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated December 28, 2023 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00260) dated December 28, 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 he has been refused access to information requested.
3. **Request 1 of the application** –The appellant, vide request no. 1 of application dated December 08, 2023, sought the following information:

“It is sincerely requested from SEBI to share the audit process of IPO allocation mechanism followed by registrars to the IPO issue.”
4. **Reply of the Respondent** - The respondent, in response to request no. 1, informed that the requested information is exempt from disclosure under section 8(1)(a) of the RTI Act as the same pertains to the internal functioning of SEBI and relates to the systems and procedures followed at SEBI. Further, the said information is strategic in nature, disclosure of which may hamper the decision-making by SEBI in its supervisory and regulatory role. However, the respondent informed that IPO allotment process is in terms of Regulation 49 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (hereinafter referred to as ‘**ICDR Regulations**’). Further, the respondent informed that Schedule XIV

of the ICDR Regulations provides 'Illustration explaining the procedure of allotment'. The respondent provided the relevant links to access the said regulations.

5. I have perused the aforesaid request and the response provided thereto. I note that the appellant vide the aforesaid request has sought information regarding the audit process of IPO allocation mechanism followed by registrars to the issue. In this regard, I note that the respondent has informed that the said information pertains to the internal functioning of SEBI and relates to the systems and procedures followed at SEBI and hence, is exempt from disclosure under section 8(1)(a) of the RTI Act. I note that the appellant vide request no. 1 is seeking information regarding audit mechanism followed by registrar of an issue in regard to IPO and not regarding audit mechanisms followed by SEBI. On consideration, I find that the response provided by the respondent does not justify the denial of the requested information on the ground that the same pertains to the internal functioning of SEBI and relates to the systems and procedures followed at SEBI. In my view, the respondent was obliged to ascertain availability of the requested information with SEBI and whether the same may be provided to the appellant in accordance with the provisions of the RTI Act. On consideration, I find that the aforesaid request has not been adequately addressed. Accordingly, it would be appropriate to remit the application for reconsideration.

6. **Request 2 of the application** - The appellant, vide request no. 2 of application dated December 08, 2023, sought the following information:

“While there are clear allocation rules defined by SEBI and followed as per basis of allocation, please confirm how registrars are audited on how they have ensured that allocation is without any bias and no manipulation of IPO allocation process has happened to benefit any specific individuals or entities.”

7. **Reply of the Respondent** – The respondent, in response to request no. 2, informed that the information sought 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.

8. I have perused the aforesaid request and the response provided thereto. On consideration, I find that the request of the appellant is in the nature of seeking clarification/opinion from the respondent. It is understood that the respondent is not supposed to create information; or to interpret information; or to furnish clarification to the appellant under the ambit of the RTI Act. 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 opinion under the RTI Act. In this

context, reference is made to the matter of *Vineet Pandey vs. CPIO, United India Insurance Company Limited* (Judgment dated January 21, 2021), wherein similar observations were made by the Hon'ble CIC. Further, in the matter of *Sbri Shantaram Walavalkar vs. CPIO, SEBI* (Decision dated January 17, 2013), I note that the Hon'ble CIC held: “... *we would also like to observe that, under the Right to Information (RTI) Act, the citizen has the responsibility to specify the exact information he wants; he is not supposed to seek any opinion or comments or clarifications or interpretations from the CPIO...*”. Accordingly, I do not find any deficiency in the response. Further, the appellant in his appeal, has submitted that SEBI can confirm whether there is suitable audit process without actually disclosing the details on the audit process. I note that the said request of the appellant in the appeal is in the nature of seeking confirmation and clarification from the respondent. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein 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 the above, no further interference of this forum is warranted at this stage.

9. Considering the above observations, 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.
10. The Appeal is accordingly disposed of.

Place: Mumbai
Date: January 18, 2024

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