

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

Appeal No. 5843 of 2023

Dipendra Kumar Soni : Appellant

Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. An application dated October 22, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (hereinafter referred to as “**RTI Act**”). The respondent, by a letter dated November 03, 2023 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00234) dated November 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. **Requests in the application** - The appellant, vide his application dated October 22, 2023 sought the following information

“I have deposited 40000 rs.(4th Dec 2014) & 75000 rs (4th Dec2014) in Kalptaru Buildtech Corporation Ltd. (Reg No.U45400UP2009PLC038016) at jaipur office in his different schemes, which maturity has been done in 2019 & 2020, but now this company has been closed his office. I did not have any update how i will get my payment back.

kindly provide me any update for refund of my money and also give information that what action has been taken by the SEBI against the comapny . Is any mode of payment has been initiated for refund of the payment, please update”

3. **Reply of the Respondent** - The respondent, in response to the aforesaid request, informed as follows:

“The matter of Kalptaru Buildtech was examined by SEBI from CIS angle and it was found that said matter is similar to Multi Level Network Marketing (MLM) Schemes, which attracted the provisions of Prize Chits and Money Circulation Schemes (Banning) Act, 1978, and/or the provisions of IPC including fraud/criminal conspiracy etc. Hence, the same was referred to Office of Chief Secretary, Government of Uttar Pradesh, as the matter does not fall under the purview of SEBI.

With regard to information sought on mode of payment initiated for refund, it is informed that no information is available with SEBI.”

4. **Ground of appeal-** The appellant has filed the appeal on the ground that has been refused access to information requested.
5. I have perused the requests made by the appellant and the response provided by the respondent. I note that the appellant in his application is seeking information about a company called Kalptaru Buildtech. The appellant has *inter alia* sought information pertaining to refund of his invested money in the said company and action taken by SEBI against the said company. I note that respondent, in his response has, *inter alia*, informed that the activities of the said company appear to be similar to MLM schemes and the same fall under the purview of the respected state governments. Hence, SEBI has no information with regard to process of refund in the said matter. The respondent further informed that SEBI has referred the matter to Office of Chief Secretary, Government of Uttar Pradesh. In this regard, I concur with response of the respondent as MLM activities are covered under Prize Chits and Money Circulation Scheme (Banning) Act, 1978, which falls under the purview of State Governments. I note that the respondent can only provide information that is available in the records. In this context, the Hon'ble Supreme Court of India in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors*, 2011 (8) SCC 497 (Judgment dated August 9, 2011) held that *"The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. 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."*
6. Further, I note that the appellant, in his appeal, has sought information regarding the actual position of the company, whether the company is wound up or still in force. I note that the appellant in his appeal is now seeking a new information pertaining to the said company. As held by the Hon'ble CIC in *Harish Prasad Divedi vs. Bharat Petroleum Corporation Limited* (decided on January 28, 2014), an information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage. Accordingly, I find that the said submissions do not warrant consideration at this stage.

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: November 22, 2023

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