

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

Appeal No. 5551 of 2023

Vishal Sharma	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated December 01, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated December 27, 2022, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00001) dated January 01, 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, vide his application dated December 01, 2022, sought the following information:

“1. Please provide a copy of rules Governing Investment/ trading by a Government servant in Commodity as well as share market (including Intra day).

2. Please provide information whether a Government servant is barred from intra day trading as the Market Opening time is same as that of Working time of the Government employees.

3. What is the Punishment in case if Violation of these rules by Government Servant, if Any.”
3. The respondent, in response to the aforesaid queries, informed that the queries do not pertain to SEBI. Hence, no information is available with SEBI.
4. **Ground of appeal-** The appellant has filed the appeal on the ground that information provided was incomplete, misleading or false information. The appellant, in his appeal, *inter alia*, alleged wilful negligence on the part of the respondent for not forwarding the application to the concerned department.

5. I have perused the query and the response provided thereto. I note that the respondent has informed the appellant about non-availability of the requested information with SEBI. In this regard, I note that the Hon'ble CIC, in the matter of *Sb. 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." In view of these observations, I do not find any deficiency in the response.
6. With respect to the submission of the appellant regarding obligation of the respondent under section 6(3) of the RTI Act for transferring the application to the concerned public authority, attention is drawn to the matter of *Sbri Ketan Kantilal Modi vs. Central Board of Excise & Customs* (Decision dated September 22, 2009), wherein the Hon'ble CIC had held that "*A petitioner is obliged under Section 6(1) to file his RTI-application before the CPIO of the public authority which is the 'concerned public authority', which holds the information within the meaning of Section 2(j) of the Act.. The decision to transfer an RTI application to another public authority under Section 6(3) is to be CPIO's given the circumstances surrounding a particular request for information. These circumstances may vary from case to case and petition to petition and cannot be predetermined*". In view of these observations, I find that an applicant cannot file an application under the RTI Act, before an unrelated public authority, with an expectation that the CPIO of such public authority would transfer the same, in accordance with section 6(3) of that Act, to the concerned public authority where the information may be held. Therefore, in the instant case, no fault can be found with the respondent for not transferring the appellant's application to any other public authority.
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: January 31, 2023

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