

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

Appeal No. 5832 of 2023

Pavan Kumar Shetty H : Appellant

Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated September 05, 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 September 26, 2023 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00226) dated October 19, 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 September 05, 2023 sought following information

“I am filing this RTI with respect to SEBI settlement order SO/AA/EFD2/2023-24/7081 Dated 25/05/2023. As mentioned in the order MANSUN CONSULTANCY PVT. Ltd. (VAALCM1703G) & Mr. P.R Sundar (ANTPP8886F) were running advisory services via telegram, I was a subscriber of the same back in financial year 2021-22 and had made a payment of 1,18,000 (including GST) back in January 2021. As per reason developments and SEBI settlement order mentioned herein above all 3 parties mentioned in the order were directed to refund the advisory fees to clients along with interest When I contacted their support team of MANSUN I was told that the fine of Rs. 6.07 Crores has already been deposited with SEBI and I need to contact SEBI for any refund. When contacted SEBI customer care I didnt get proper response and there is no provision to raise complaint against unregistered entity in SCORES. Given the above scenario I would like to know.

1. What steps have been taken by SEBI to refund the amount to the subscribers of Telegram/ Advisory services run by Mr. PR Sundar?

2. What is the procedure to claim refund of advisory fees from SEBI.?”

3. **Reply of the Respondent** -The respondent, in response to the query no. 1, informed that no information is available. In response to the query no. 2, the respondent informed that the query is 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.
4. **Ground of appeal** - On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant has filed the appeal on the ground that information provided was incomplete, misleading or false information.
5. **Query No. 1** - With respect to query no. 1, I have perused the query and the response provided thereto. I note that the respondent has categorically stated that the requested information is not available with Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”). On consideration, I do not find any reason to disbelieve the said response. In this context, I note that the Hon’ble Central Information Commission (hereinafter referred to as “**CIC**”), in the matter of *Sh. 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. **Query No. 2** – With respect to query no. 2, I note that the appellant has sought very specific information pertaining procedure to claim refund for advisory fees in light of the aforementioned SEBI order. 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 is in the nature of seeking clarification. 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 application has not been adequately addressed.
7. Considering the above observations, I remit the application to the respondent for *de novo* consideration of query no. 2 and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.

8. The Appeal is accordingly disposed of.

Place: Mumbai

Date: November 8, 2023

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