

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

Appeal No. 4840 of 2022

Raman	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated March 10, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated March 22, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated March 25, 2022. 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 access to the requested information was refused. In view of the submissions made by the appellant in his appeal, I am dealing with the queries and the response provided thereto in the following paragraphs.
3. **Query number 1-** The appellant, vide query number 1, sought the following information:
 1. *The detailed and latest criteria of BSE according to which they classify companies which have listed their equity instruments with BSE into Group viz. A,B,C,T,X,Z etc. What is the review period by which BSE reviews and regroup them.*
4. The respondent, in response to query number 1, informed that the information sought is not available with SEBI. The appellant, in his appeal, *inter alia*, submitted that SEBI should have obtained the information from BSE under Section 6(3) of the RTI Act.
5. I have perused the query and the response provided thereto. I do not find any reason to disbelieve the observation that the information sought by the appellant, is not available with SEBI. In this context, I note that the Hon’ble Supreme Court of India in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (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." Further, I note that the Hon'ble 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 find that the information sought by the appellant was not available with SEBI and therefore, the respondent cannot be obliged to provide such non-available information.

6. Further, I note that the appellant, in his appeal, submitted that SEBI should have obtained the information from BSE under Section 6(3) of the RTI Act. I find that the respondent is only expected to see that the information to be furnished to an applicant is the one 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. The respondent is not expected to obtain any information for the sole purpose of providing the same to an applicant under the RTI Act. Further, I note that Section 6(3) of the RTI Act specifically deals with transfer of application to other public authority. In view of the above, I find do not find any merit in the submission of the appellant and the same does not warrant consideration at this stage.

7. **Query number 2-** The appellant, vide query number 2, sought the following information:

2. Constitution of all the committees by BSE (including both statutory and non-statutory) along with name of committee members.

8. In response to query number 2, the respondent referred to the annual report of BSE available on its website. The respondent also provided the link for accessing the same. The appellant, in his appeal, *inter alia*, submitted that the website mentioned in the reply given by SEBI shows error.
9. I have perused the query and the response provided thereto. On consideration, I find that the respondent has adequately addressed the query by guiding the appellant to refer to the information available in the public domain. Further, with respect to the submission of the appellant regarding website

showing error, I find that that the link is active and accessible. Accordingly, I do not find any merit in the submission made by the appellant.

10. 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: April 21, 2022

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