

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

Appeal No. 4841 of 2022

Geeta Khattar	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated January 15, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated February 03, 2022 responded to the application filed by the appellant. The appellant filed an appeal dated March 25, 2022.
2. I note that under Section 19(1) of the RTI Act, an aggrieved person may prefer the first appeal within thirty days from the receipt of the response from the CPIO of the concerned public authority. In the instant case, the impugned response from the respondent is dated February 03, 2022. The appellant, therefore, should have filed the first appeal on or before expiry of thirty days from the date of receipt of the said response. As noted above, the appellant has filed this first appeal on March 25, 2022. The first appeal has been made after the last date permissible under the RTI Act. The appellant, in her appeal, stated that she had not received a notification when the application was disposed and therefore, she could not file the appeal on time. I do not find the reason plausible since the response was uploaded on the RTI MIS Portal within the time prescribed under the RTI Act. Further, a system generated notification is sent to the registered number/email id of the concerned applicant. In view of the same, I consider this appeal as time barred and hence, liable to be dismissed on that count.
3. Notwithstanding the above observation, I have considered the appeal on merit. I have perused the application, the responses and the Appeal and find that the matter can be decided based on the material available on record.
4. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. The appellant, in her appeal, *inter alia*, submitted that the application falls under

Section 2(f) of the RTI Act. In view of the submission made by the appellant, I am dealing with the queries and the response provided thereto, in the following paragraphs.

5. **Query number A1-** The appellant, in query number A1, referred to CPGRAMS case No. DORVU/E/2021/03951 and sought copy of SEBI's letter dated March 09, 2017, SEBI email December 19, 2017, and SEBI letter dated November 15, 2018. The appellant also sought SEBI's website details where the three letters are electronically saved.
6. The respondent, in response to the aforesaid query, informed that the said letters are not available on the SEBI website.
7. I have perused the aforesaid query and the response provided thereto. I note that the appellant, vide first part of query number A1, sought copy of SEBI's letter dated March 09, 2017, SEBI email December 19, 2017, and SEBI letter dated November 15, 2018. On consideration, I find that the respondent has neither provided the requested information nor explained the reasons why the same is not provided. Therefore, the respondent shall reconsider the first part of the query and provide an appropriate response.
8. Further, the appellant, with respect to the second part of query number A1, sought information regarding SEBI website where the said three letters were electronically saved. I find that the respondent has adequately addressed the query by providing the information available with him. Accordingly, I do not find any deficiency in the response.
9. **Query numbers A2, A3, 1, 2, 3, 4 and 5-** The appellant, vide query number A2, *inter alia*, sought information with respect to SEBI Rules/ Regulations, Circulars/ Guidelines under which SEBI letter dated March 09, 2017, SEBI email December 19, 2017 and SEBI letter dated November 15, 2018 were issued. Vide query number A3, the appellant sought copy of Action History with details of the CPGRAMS case. The appellant, vide query numbers 1, 2, 3, 4 and 5, *inter alia*, sought the page numbers and point numbers in the SEBI letters where information pertaining to the CPGRAMS case and SEBI's order against Kotak Securities, is mentioned.
10. The respondent, in response to the aforesaid queries, informed that the queries are in the nature of seeking clarification/opinion and accordingly, the same cannot be construed as seeking "information", as defined under Section 2(f) of the RTI Act. Further, the respondent informed that the action taken history, category, remarks, supporting documents, if any and all the details pertaining to a SCORES

complaint may be accessed by logging in the SCORES portal where the same is available in the standard format. The respondent also informed that the copy of the order, if any, issued under SCORES complaint, may also be accessed from the same link.

11. I have perused query numbers A2, 1, 2, 3, 4 and 5 and the response provided thereto. On consideration, I find that the queries of the appellant have been rightly considered to be in the nature of seeking clarification/opinion from the respondent. I note 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 queries 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, I note that the Hon'ble CIC, in the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), the Hon'ble CIC observed 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 these observation, I do not find any deficiency in the response.
12. I have perused query number A3. I note that the details pertaining to the CPGRAMS complaint can be found out by the appellant by accessing the relevant portal where the said complaint was lodged. On consideration, I find that no further intervention is warranted at this stage.
13. In view of these observations, I remit the application to the respondent for reconsidering the first part of query number A1 seeking copy of SEBI letter dated March 09, 2017, SEBI email December 19, 2017, and SEBI letter dated November 15, 2018, and to provide appropriate response within 15 working days from the date of receipt of this order.

14. The Appeal is accordingly disposed of.

Place: Mumbai

Date: April 22, 2022

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