

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

Appeal No. 4799 of 2022

Basant Kumar Sharma	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated December 16, 2021 (received by SEBI on December 21, 2021) under the Right to Information Act, 2005 ("**RTI Act**"). Thereafter, the appellant filed Appeal No. 4620 of 2022 dated January 24, 2022 (received by the Office of Appellate Authority on January 31, 2022) on the ground of non-receipt of information sought from the respondent. Vide order dated February 18, 2022, the said appeal was disposed of as being infructuous since the response dated January 17, 2022 of the respondent was sent within the time stipulated under the RTI Act. A copy of the said response was provided to the appellant along with the order dated February 18, 2022. The appellant was also advised to file a fresh appeal if he was not satisfied with the reply provided by the respondent. Thereafter, the appellant filed an appeal dated March 11, 2022 (received by the office of Appellate Authority on March 16, 2022). I have carefully considered the application 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 16, 2021, *inter alia*, sought the copies of past/ recent SEBI circulars that covers the information/ procedure related to the following-
 - i. Issue of duplicate securities certificate
 - ii. Exchange of securities certificate
 - iii. Consolidation of folios
 - iv. Change in name of shareholder
 - v. Claim for undelivered securities
 - vi. unclaimed securities from suspense account

3. The respondent, in response to the aforesaid queries, informed that the circulars issued by SEBI were available in the public domain, on the SEBI website. The respondent provided the link for accessing the SEBI website and also advised the appellant to refer to the said website for the updated information. Further, the respondent also provided the links for accessing the regulations/circulars dealing with issue of duplicate certificate, exchange of securities of shareholders and consolidation of folios, change in name and unclaimed securities from suspense account
4. **Ground of appeal-** the appellant, in his appeal, *inter alia*, sought the requested information i.e. copy of circulars, in physical format.
5. I have perused the queries and the response provided thereto. On consideration, I find that the queries of the appellant are in the nature of eliciting clarification/opinion from the respondent with respect to situational queries. It is understood 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. In this context, I note that the Hon'ble CIC, in the matter of *Mr. Mahendra Kumar Mehta vs. CPIO, SEBI* (Judgment dated April 12, 2021), held that: “9. *This Commission observes that the appellant herein attempts to seek legal opinion/clarification from the CPIO to his situational queries with regard to 'the circular, rules, regulations, notification etc. regarding trading member for taking stock in pledge, collateral, or security for providing margin to do trade in reference to derivatives segment, charging of interest and GST, precaution to be taken by trading member for protection of constituents individual/HUF etc.'*. Therefore, the CPIO is not supposed to interpret information; or to furnish replies to situational queries; or to furnish clarifications. Hence, such queries seeking legal opinion/clarification from the CPIO are not covered within the definition of 'information' u/ Section 2(f) of the RTI Act, 2005. Accordingly, this Commission upholds the contention put forth by the CPIO.” In view of these observations, I find that the respondent did not have an obligation to provide such clarification/opinion under the RTI Act.
6. Notwithstanding the above, I find that the respondent has addressed the queries by providing the information available with him. Accordingly, I do not find any deficiency in the response.
7. Further, I note that the appellant, in his appeal, sought the physical format of the circulars referred to by the respondent. In this regard, I note that Hon'ble CIC in *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007) held that “..... *unless an information is exclusively held and controlled by a public authority, that information cannot be said to be an information accessible under the*

RTI Act. Inferentially it would mean that once a certain information is placed in the public domain accessible to the citizens either freely, or on payment of a pre-determined price, that information cannot be said to be 'held' or 'under the control of the public authority and, thus would cease to be an information accessible under the RTI Act.'" In view of the same, I am of the opinion that this request of the appellant does not warrant consideration at this stage.

8. 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 13, 2022

S V MURALI DHAR RAO
APPELLATE AUTHORITY UNDER THE RTI ACT
SECURITIES AND EXCHANGE BOARD OF INDIA