

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

Appeal No. 6088 of 2024

Komban Varghese Anil	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 24, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 19, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00157) dated July 20, 2024. 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** - On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant, in his appeal, has raised dissatisfaction only with respect to the replies to request nos. 5 and 6 of his application.
3. **Request no. 5 of the application** - The appellant, vide his request no. 5 of the application dated June 24, 2024, sought the following information:

“Referring to the ANNUAL STATEMENT OF ACCOUNTS (SEBI), 2022-23. Reported under the Separate Audit Report of the Comptroller & Auditor General of India on the Annual Accounts of Securities and Exchange Board of India (SEBI) for the year ended on 31st March 2023. A. Fixed Assets (Schedule 6) Furniture and Fixtures- Rs. 31.64 crore.

The above head is understated by an amount of Rs. 5.18 crore due to noncapitalization of the assets which were put to use during October 2022 but were shown as work in progress on the date of Balance Sheet. This resulted in overstatement of work in progress also by the same amount.

Information sought: ...

5.The reason for such a mistake.”

4. **Reply of the Respondent** - The respondent, in response to request no. 5 of the application, 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.

5. I have perused the application and the response provided thereto. On consideration, I find that said request appear to be interrogative in nature. In my opinion, the CPIO is not supposed to provide clarification/ explanation; or to interpret information; or to provide response to interrogative queries under the ambit of the RTI Act. In this context, I note that the Hon'ble CIC, in the matter of *Laxman Prasad Kayal vs. CPIO, State Bank of India* (Order dated June 20, 2023) held that “9. The Commission based on a perusal of the facts on record finds that the dissatisfaction of the Appellant with the reply provided by the CPIO is bereft of merit as the RTI Application merely seeks for clarifications and answers to interrogative queries. It appears that the Appellant is harbouring a grievance and is not seeking access to information as envisaged under the RTI Act.” In view of these observations, I find that the said request cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent.
6. **Request no. 6 of the application** - The appellant, vide his request no. 5 of the application dated June 24, 2024, sought the following information:
- “It is mentioned in the referred document that the Internal Audit Reports of SEBI are available up to March 2023. The accounts were verified by M/s. CHOKSHI & CHOKSHI LLP. The Internal Audit is being carried out by a Chartered Accountant Appointed by BoG for the purpose. However, SEBI, Mumbai does not have its own Internal Audit Cell. Taking into consideration the size and nature of activities of the Board, it is felt that the Board should have its own Internal Audit Cell. Further, no audit manual has been prepared by SEBI, Mumbai. Accordingly, seeking the copy of the Internal Audit Report for the period under reference.”*
7. **Reply of the Respondent** - The respondent, in response to request no. 6 of the application, informed that the information sought pertains to internal functioning and relates to the system and procedure followed and disclosure of which may hamper the decision making by SEBI. Hence, the disclosure of the same is exempted u/s 8(1)(a) of RTI Act, 2005.
8. I have perused the aforesaid request and the response provided thereto. I note that the respondent, in his response, has cited provisions of Section 8(1)(a) of the RTI Act to deny information to the appellant. However, on consideration, I find that the respondent has not provided sufficient justification for the invocation of the aforesaid Section. 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 aforesaid request has not been adequately addressed. Accordingly, it would be appropriate to remit the application for reconsideration.

9. Considering the above observations, I remit the application to the respondent for *de novo* consideration of request no. 6 the application and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.
10. The Appeal is accordingly disposed of.

Place: Mumbai

Date: August 14, 2024

RUCHI CHOJER
APPELLATE AUTHORITY UNDER THE RTI ACT
SECURITIES AND EXCHANGE BOARD OF INDIA