

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

Appeal No. 5984 of 2024

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

ORDER

1. The appellant had filed an application dated March 19, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 ("**RTI Act**"). The respondent, by a letter dated April 12, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00079) dated April 15, 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** - The respondent has filed the appeal on the ground that the information provided is incomplete, misleading or false information.
3. **Request no. 1 - 3 of the application** - The appellant, vide his request nos. 1-3 of the application dated March 19, 2024, sought the following information:

"1. Provide information in the form of the rank of the officials appointed in SEBI that can make decisions or issue the Order against SEBI officials under the Indian Penal Code (IPC Act), 1860, and the Prevention of the Corruption Act, 1988.

2. Provide information in the form of the name of the officials appointed in SEBI up to 30 June 2024 that can make decisions or issue the Order against SEBI officials under the Indian Penal Code (IPC Act), 1860, and the Prevention of the Corruption Act, 1988.

3. Provide information in the form of the name of the department in SEBI that can make decisions or issue the Order against SEBI officials under the Indian Penal Code (IPC Act), 1860, and the Prevention of the Corruption Act, 1988."
4. **Reply of the Respondent** - The respondent, in response to the aforesaid requests informed that Indian Penal Code, 1860 (IPC Act) does not come under the purview of SEBI. However, the respondent informed that with respect to Prevention of the Corruption Act, 1988 (hereinafter referred to as "PC Act"), SEBI (the Competent Authority) only exercises provision of Section 17A of PC Act to grant or

deny the request of an investigating agency to initiate an investigation and provision of Section 19 (1) of PC Act to grant or deny the request of an investigating agency, to prosecute the officer. The respondent further informed that Competent Authority in this regard is the authority competent to appoint/remove the person from his office. The respondent also informed the appellant to refer to SEBI (Delegation of Power, 2019) available on SEBI website.

5. I have perused the aforesaid request and the response provided thereto. I find that the respondent has adequately addressed the requests by providing the information available with him. Hence, I do not find any deficiency in the response of the respondent. Further, I note that the appellant, in her appeal has objected to providing combined reply by the respondent to the aforementioned requests. However, I note that the said requests are similar in nature and hence, do not warrant separate answers. Accordingly, I do not find any deficiency in the response of the respondent.
6. **Request no. 4 of the application** - The respondent, vide request no. 4 of the application, *inter alia*, sought information regarding Act under which the Chief Vigilance Officer and the Vigilance Head, can issue orders/ take decisions against SEBI officers.
7. **Reply of the Respondent** - The respondent, in response to the request no. 4, informed that no such Act exists. However, the respondent informed that all employees of SEBI are governed by SEBI (Employees' Services) Regulations, 2001 and any action against the employee is dealt in accordance with SEBI (Employees' Services) Regulations, 2001.
8. I have perused the aforesaid requests and the response provided thereto. I find that the respondent has adequately addressed the requests by providing the information available with him. Hence, I do not find any deficiency in the response of the respondent. Further, on perusal of the appeal, it appears that the appellant is questioning the correctness of the information provided by the respondent. In this context, it is observed that the Hon'ble High Court of Delhi in *Hansi Rawat & Anr. vs Punjab National Bank & Ors.* (LPA No. 785/2012-decision dated January 11, 2013) held that "*The question, as to what inference if any is to be drawn from the response of the PIO of the respondent Bank to the RTI application of the appellants, is to be drawn in the said proceedings and as aforesaid the proceedings under the RTI Act cannot be converted into proceedings for adjudication of disputes as to the correctness of the information furnished.*" The said judgement was also relied upon by the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**"), in the matter of *Naresh Luthra vs. CPIO, IGNOU, Student Evaluation Division* (order dated December 01, 2021). Accordingly, no further intervention of this forum is warranted.

9. **Request no. 5 of the application** – The appellant, vide his request no. 5 of the application sought information regarding number of orders issued by SEBI since the year 2014 against stockbrokers Sharekhan Limited, SHCIL services Ltd., and Kotak Securities with respect to Geeta Khattar Matters.
10. **Reply of the Respondent** – The Respondent, in response to the aforesaid request informed that orders passed against stockbrokers are available on SEBI website. The respondent provided the relevant path to access the same.
11. I have perused the aforesaid request and the response provided thereto. I note that the appellant has sought information regarding orders passed against certain stockbrokers. In this regard, the respondent has informed the appellant that the orders passed against stock brokers are available on SEBI website. I also note that the respondent has provided the path to access orders on SEBI website. On consideration, I note that the information sought by the appellant is available in public domain and I find that the respondent has guided the appellant to access the same on SEBI website. In this context, the Hon'ble Delhi High Court, in the matter of *Registrar of Companies & Ors. Vs. Dharmendra Kumar Garg & Anr.* and the Hon'ble CIC in the matter of *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007), *inter alia*, observed that if the relevant information is available in the public domain, the same cannot be said to be information held by the public authority and consequently there is no obligation to provide such information to an applicant under the RTI Act. As per the submission in the appeal, it appears that the appellant expects the respondent to further research on the aforesaid information available on public domain and provide the same to him. In this regard, it is pertinent to note that the respondent 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 the appellant. In this context, I note that the Hon'ble CIC had made similar observation in the matter of *Mr. Nitin Moolani vs. CPIO, SEBI* (order dated October 25, 2021). Accordingly, I do not find any deficiency in the response of the Respondent.
12. **Request nos. 6 of the application** - The appellant, vide request no. 6 of the application, requested the respondent to arrange for information regarding number of orders passed by NSE and BSE since the year 2014 in Geeta Khattar matters with respect to stock brokers Sharekhan Limited, SHCIL services Ltd and Kotak Securities.
13. **Reply of the Respondent** – The respondent, in response to the aforesaid request, informed that the information sought does not pertain to SEBI. Hence, the information sought is not available with SEBI.

Further, the respondent informed that orders passed by NSE and BSE are available on their respective websites. The respondent also provided the relevant links to access the orders on the respective websites of the Exchanges.

14. I have perused the aforesaid requests and the response provided thereto. I note that the respondent has categorically stated that the requested information is not available with SEBI. I do not have any reason to disbelieve the said response of the respondent. I note that the respondent can only provide information that is available in the records. Further, on perusal of the application and the appeal, it appears that the appellant expects the respondent to collect and collate the requested information from the Exchanges. 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.*" Notwithstanding the above, I note that the respondent has guided the appellant access the orders of NSE and BSE on their respective websites. Accordingly, I do not find any deficiency in the response of the respondent.
15. **Request nos. 6 (A) - 6(E) of the application** - The respondent vide requests nos. 6 (A) - 6(E) of the application, *inter alia*, sought information regarding certain circulars pertaining to SCORES portal.
16. **Reply of the Respondent** - The respondent, in response to request no. 6(A) informed that the information sought is not available with SEBI. However, the respondent informed the appellant that all the circulars issued by SEBI are available on SEBI website. The respondent also provided the path to access circulars on SEBI website.

The respondent, in response to requests nos. 6(B), 6(C) and 6(E) of the application, informed that SEBI has not issued any such circular. Further, with respect to request nos. 6(C) and 6(E) of the application, the respondent informed that Action Taken Report (ATR) is available online in SCORES portal and it cannot be removed.

The respondent, in response to request no. 6(D) of the application, informed that the information sought has already been replied by CPIO, SEBI vide letter dated March 19, 2024 in response appellant's earlier RTI No. SEBIH/R/E/22/00165 dated February 21, 2024.

17. I have perused the aforesaid requests and the response provided thereto. I find that the appellant had sought the same information vide his earlier RTI No. SEBIH/R/E/22/00165 dated 21/02/2024 and the respondent had responded to the said RTI application vide his letter dated March 19, 2024. Further, the respondent had also filed an appeal in the said matter before this forum and order dated April 8, 2024 in Appeal no. 5961 of 2024 was passed in respect to the same. Hence, I note that the aforesaid requests are repetitive in nature. The appellant, in her appeal, has *inter alia* stated that RTI application, even if repetitive, has to be responded to. In this regard, I note that the Hon'ble CIC, in the matter of *Geeta Khattar vs. CPIO, SEBI* (order dated December 22, 2022) observed that "*The Commission observed that the complainant has been filing multiple RTI applications against the same public authority on the similar queries. The same was decided by the Commission on 06.12.2022 vide File No. CIC/SEBIH/C/2021/640243 and CIC/SEBIE/A/2021/653859. It is also noted that the complainant neither appears during the hearings before the Commission nor receives the postal notices of the Commission. Needless to say, such multiplicity of frivolous RTI applications and appeals arising thereof are clogging the system of the Commission as well as of the public authorities. The Commission placed reliance on the decision of Shail Sabni vs. Sanjeev Kumar & Ors. [W.P. (C) 845/2014], wherein the Hon'ble High Court of Delhi observed:*

".....Consequently, this Court deems it appropriate to refuse to exercise its writ jurisdiction. Accordingly, present petition is dismissed. This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this "sunshine Act". A beneficial Statute, when made a tool for mischief and abuse must be checked in accordance with law." In view of the above, I find that no further intervention of this forum is warranted at this stage.

18. 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: May 7, 2024

B RAJENDRAN
APPELLATE AUTHORITY UNDER THE RTI ACT
SECURITIES AND EXCHANGE BOARD OF INDIA