

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

Appeal No. 5152 of 2022

H C Arora	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 22, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated June 14, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated June 22, 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-** 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, *inter alia*, submitted that certain facts and figures were sought from SEBI as the same needs to be informed to the Hon’ble Delhi High Court. In view of the submissions made by the appellant, 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, *inter alia*, sought SEBI’s purpose in taking the undertaking from Delhi Stock Exchange (DSE). The appellant, in his appeal, stated that a copy of the said undertaking was provided to him by SEBI vide letter dated December 24, 2022.
4. The respondent, in response to the aforesaid query, informed that the query is 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.
5. I have perused the query and the response provided thereto. On consideration, I find that the query of the appellant is 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. 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) 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/advice 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 observations, I find that the said query 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. Accordingly, I do not find any deficiency in the response.

6. **Query number 2-** The appellant, vide query number 2, *inter alia*, sought information with respect to the amount received by SEBI from DSE after submission of the said Undertaking.
7. The respondent, in response to query number 2, informed that the amount received by SEBI from DSE in respect of exit of DSE, is mentioned in the SEBI orders dated January 23, 2017 and January 25, 2017, which are available on the SEBI website. The respondent also provided the links for accessing the said orders.
8. I have perused the query and the response provided thereto. On consideration, I find that the answer to the query can be found out by the appellant by accessing the information available on the SEBI website, which is in the public domain. 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 these observations, I find that the respondent cannot be obliged to provide response to such request for information, as made by the appellant through his application. Notwithstanding the same, I find that the respondent has guided the appellant to access the relevant information which is available on the SEBI

website. In my view, the query has been adequately addressed. Accordingly, I do not find any deficiency in the response.

9. **Query numbers 3 and 4-** The appellant, vide query number 3, *inter alia*, sought information regarding the person who is responsible for ensuring compliance of the various financial clauses mentioned in the Undertaking. Vide query number 4, the appellant sought information regarding the custodian of Rs.11,85,92,576 earmarked as contingent liabilities as mentioned in Point 1.
10. In response to the aforesaid queries, the respondent informed that the information sought is not available with SEBI. The respondent also informed that SEBI, vide order dated January 23, 2017, allowed the exit of the DSE. Accordingly, DSE is no longer recognized as a stock exchange w.e.f. January 23, 2017. Therefore, the erstwhile DSE is not a regulated entity of SEBI after January 23, 2017.
11. I have perused the queries and the response provided by the respondent. I do not find any reason to disbelieve the response of the respondent that the requested information is not available with SEBI. In this context, 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.
12. 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: July 20, 2022

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