

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

Appeal No. 6257 of 2024

Somnath Shivaji Gund	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated October 24, 2024 (received by SEBI on November 13, 2024) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated November 21, 2024, responded to the application filed by the appellant. The appellant filed an appeal dated December 09, 2024 (received by the Office of Appellate Authority on December 13, 2024). I have perused the application, the response of the respondent 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, *inter alia*, submitted that he has not received information with regard to payment of fees within 10 days and hence, the CPIO is liable for action. Further, the appellant has requested appellate authority to issue direction to the CPIO to provide him information and has also requested to take action against the CPIO for violating the provisions of the RTI Act.
3. **Query no. (a) in the application-** The appellant, in his application dated October 24, 2024, has stated that he had lodged a complaint with the Chairperson, SEBI on August 30, 2024. The appellant vide query no. (a) in his application has sought following information:

a) Copy of the complaint letter forwarded by the Appellant.

4. **Reply of the Respondent** - The respondent, in response to the query no. (a) informed that appellant is the original source of the information sought by him and that the said information may be available with him.
5. I have perused the query and the response provided thereto. On consideration, I note that the appellant is seeking a copy of the complaint letter sent by him to SEBI. I am of the view that the appellant is not entitled to seek the copy of his own document as a matter of right under the RTI Act. In this context, the Hon'ble Madras High Court in the matter of *PIO, Registrar, High Court, Madras vs. Central Information Commissioner* (Order dated September 17, 2014 passed in W.P. No. 26781 of 2013) held that “*we fail to understand as to how the second respondent is entitled to justify his claim for seeking the copies of his own complaints and appeals., admittedly, they are the documents of the second respondent himself, and therefore, if he does not have copies of the same, he has to blame himself and he cannot seek those details as a matter of right, thinking that the High Court will preserve his frivolous applications as treasures/valuable assets. Further, those documents cannot be brought under the definition "information" as defined under Section 2(f) of the RTI Act. Therefore, we reject the contention of the second respondent in this aspect.*” The said order was referred to by the Hon'ble Central Information Commission (hereinafter referred to as “**CIC**”) in the matter of *K N Rajasekar vs. CPIO, Department of Official Language, Chennai* (Order dated August 31, 2019) while observing that “*The Commission further observes that the appellant vide point no. 3 of the RTI application is seeking a copy of his own documents submitted by him at the time of his appointment in the Hindi Teaching Scheme (HTS), Chennai Office, which he is not entitled to seek as a matter of right under the RTI Act..... In view of the above ratio, information sought cannot be provided to the appellant.*” In view of these observations, I find that the requested information cannot be provided to the appellant. Accordingly, I do not find any deficiency in the response of the respondent.
6. **Query nos. (b), (d), (h) & (i)** - The appellant, vide query nos. (b), (d), (h) & (i) in his application, has sought following information:

(b) Inward Number of his complaint letter.

(d) Copy of the investigation report submitted by the dealing officer.

(h) Details of action taken in the matter along with the documents thereof.

(i) Copy of the progress report / order passed in the matter.

7. **Reply of the Respondent** - The respondent in response to query no. (b) informed that the inward no. of the letter mentioned in his application is 37612. Further, the respondent in response to query nos. (d), (h) & (i) provided the information sought along with his response.
8. I have perused the queries and the response provided thereto. With regard to query nos. (b), (d), (h) & (i), I find that the respondent has adequately addressed the queries by providing the information available with him. Accordingly, I do not find any deficiency in the response of the respondent.
9. **Query nos. (c) & (e)** – The appellant in query nos. (c) & (e) in his application has sought following information:
- (c) Name and designation of the officer who was assigned to deal with the matter, along with the date of assignment.*
- (e) Name and designation of the officers with whom communications were held as well as time taken to deal in this matter.*
10. **Reply of the Respondent** -The respondent in response to query nos. (c) & (e) informed that the information sought relates to personal information, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion in to the privacy of the individual. The same is, therefore, exempt in terms of Section 8(1)(j) of the RTI Act.
11. I have perused the queries and the response provided thereto. With regard to query nos. (c) & (e), I note that that the respondent has denied the requested information under section 8(1)(j) of the RTI Act. On consideration, I find that the name and designation of SEBI officers who were assigned to deal with appellant's complaint letter and details of the other officials involved in the matter, sought by the appellant relates to personal information, the disclosure of which may cause unwarranted invasion into the privacy of the individual. In this context, reference is made to the judgment of the Hon'ble Supreme Court of India in the matter of *Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal* in Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010 (judgement dated November 13, 2019) wherein the import of "personal information" envisaged under Section 8(1)(j) of RTI Act has been exemplified in the context of earlier ratios laid down by the same Court in other matter(s). The Hon'ble Supreme Court held that: "*59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded,*

including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive...". Further, on perusal of the appeal, I note that the appellant has failed to provide any submissions as to how the disclosure of the information is justified by larger public interest. In this context, I note that the Hon'ble High Court of Delhi in the matter of *Municipal Corporation Delhi vs. Rajbir* W.P.(C) 13219/2009 and CM 14393/2009, decided on 24.8.2017 had held that:

"9..... Respondent has not provided any credible justification for seeking information regarding the personal assets of the MCD employee in question.

10. There can be no doubt that the information sought by respondent is personal information concerning an employee of MCD. Such information could be disclosed only if respondent could establish that disclosure of such information was justified by larger public interest." Accordingly, I do not find any deficiency in the response of the respondent

12. **Query nos. (f) & (g)** - The appellant in query nos. (f) & (g) in his application has sought following information:

(f) Copy of the statement w.r.t. the matter (with file noting)

g) Copy of documents submitted by the related parties in this matter.

13. **Reply of the Respondent** - The respondent in response to query nos. (f) & (g) informed that the information sought by the appellant is not available with SEBI.
14. With respect to query nos. (f) & (g), I note that the respondent has categorically stated that the requested information is not available with SEBI. I note that the respondent can only provide information that is available in the records. 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."*

Further, I note that the Hon'ble CIC in the matter of *Sb. 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." Accordingly, I do not find any deficiency in the response of the respondent.

15. **Query nos. (j), (k) & (l)-** The appellant vide query nos. (j), (k) & (l) in his application has sought following information:

(j) Whether this matter is considered as cognizable offence? If yes, please provide documents in support.

(k) Copy of the certificate obtained by the CPIO which certifies that the CPIO is well trained to deal with RTI related matter.

(l) In the extant matter, if the CPIO does not perform his duties and commits unconstitutional acts or makes false statements or does not give reply, then under which sections of the IPC can an FIR be lodged against him? The applicant has also asked name and designation of the officer who is entrusted with the power to register FIR against the CPIO.

16. The respondent in response to query (j), (k) & (l) informed that queries of the appellant are 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.
17. With respect to query nos. (j), (k) & (l), I On consideration, I concur with the response of the respondent that the queries in the application are in the nature of seeking clarification/opinion from the respondent.. Further, the aforesaid queries also appear to be situational queries. In the context of seeking replies to situational queries, 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 appellant's 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. Accordingly, I do not find any deficiency in the response.

18. Further, the appellant, in his appeal, has requested to initiate action against the respondent under the provisions of RTI Act and Bharatiya Nyaya Sanhita cited in his appeal. I find that this request is beyond the purview of the First Appellate Authority. Moreover, as seen from the preceding paragraphs, the respondent had adequately addressed the queries raised in the appellant's application within the stipulated timeline. In view of these observations, I find that the said request of the appellant does not warrant consideration at this stage.
19. 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: December 30, 2024

PRAMOD RAO

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