

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

Appeal No. 5726 of 2023

Kuldeep	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 02, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated June 22, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00140) dated June 23, 2023. 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 appellant, in his appeal, has not provided any specific ground for filing the appeal. On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent with respect to the queries for which information was denied on the ground that the same were not clear. In view of the submission made by the appellant, I am only dealing with query numbers 1, 2 and 3 along with the response provided by the respondent, in this order.
3. **Query numbers 1, 2 and 3** –The appellant, vide query numbers 1, 2 and 3, sought the following information:

“1. Please provide information regarding any legal obligations or SEBI rules that might restrict the establishment of an online platform where startups can acquire investment from the public in exchange for equity. I am seeking information regarding, specific permissions or agreements that users must adhere to before utilizing such a platform.

2. Please provide information regarding any legal obligations or SEBI rules that might restrict the listing of Indian startups on the online platform where startups can acquire investment from the public in exchange for equity that is registered in a different country.

3. Please provide information regarding any legal obligations or SEBI rules that might restrict the investment by the Indian public on online platform where startups can acquire investment from the public in exchange for equity.”

4. The respondent, in response to the query numbers 1 and 3, informed that the queries are not clear and specific and are in the nature of seeking clarification. Accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. However, the respondent informed that the recognition of Stock exchanges in India are governed by the SEBI Act, 1992, the Securities Contracts (Regulations) Act, 1956, the Securities Contracts (Regulations) (Stock Exchange and Clearing Corporations) Regulations, 2018 and various Circulars Issued thereunder from time to time. The respondent also provided the link for accessing the same on the SEBI website. With respect to query number 2, the respondent informed that the information sought is not clear and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. However, respondent informed that if any company desires to list its securities on recognized Stock Exchanges, such company is required to comply with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. The respondent also provided the link for accessing the same on the SEBI website. The appellant, in his appeal, submitted that he believed his queries to be clear.
5. I have perused the aforementioned queries and the response provided thereto. On consideration, I find that the queries are in the nature of seeking clarification/guidance/opinion from the respondent regarding start-ups acquiring investment from the public. The queries also appear to be situational queries. In my opinion, the CPIO is not supposed to provide clarification/opinion; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein the Hon’ble CIC 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/ advices 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 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 said queries cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act. Notwithstanding the same, I note that the respondent has guided the appellant to refer to the Acts/ Regulations/ Circulars etc. which are available on the website of SEBI. I also note that the same are in the public domain and accessible by the appellant himself.

6. In view of the above observations, I find that no further intervention is warranted at this stage. The appeal is accordingly dismissed.

Place: Mumbai

Date: July 24, 2023

ANAND BAIWAR

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