

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

Appeal No. 5632 of 2023

Ankit Shah	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated February 16, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated March 15, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00063) dated March 18, 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. **Queries in the application** –The appellant, vide his application dated February 16, 2023, sought the following information:

“SEBI has passed a Settlement Order against Bharat Nidhi Ltd, all the Top Shareholders of the companies are penalised, but still they are considered Public Shareholders. Please let us know under which section of the Company / Securities Law / Companies Act or any Act in India public shareholders are penalised. Company claiming promoterless company but only Top Shareholders of the Companies gets penalised. Request to clarify in future as an Investor, how can SEBI penalise public shareholder of the company? Unless wrong classification done by the company & SEBI penalised the same. This becomes precedent that due to any wrong doing of company or management it directly affects the Public Shareholders. Public Shareholder as also paid the penalty, seems very shocking, unless the public shareholder is promoter for what reason public shareholder has willingly paid the penalty.”

3. The respondent, in response to the application, informed that the queries are 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.

4. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. The appellant, in his appeal, *inter alia*, reiterated the queries raised in his application. The appellant also submitted that there is no question of insider trading or front running in the matter.
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 eliciting clarification/opinion from the respondent regarding situational query pertaining to a settlement order passed by SEBI. I note that the respondent is not supposed to provide opinion; 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 *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 respondent did not have an obligation to provide such clarification/opinion under the RTI Act. Accordingly, I do not find any deficiency in the response.
6. 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: April 18, 2023

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