

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

Appeal No. 5710 of 2023

Ashok Kumar Agarwala	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 04, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 25, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00125) dated June 07, 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 has filed the appeal on the ground that the information provided was incomplete, misleading or false information. In view of the submissions made by the appellant in his appeal, I am dealing with the queries and the response provided thereto in the following paragraphs.
3. **Query numbers 1, 2, 3, 4 and 5-** The appellant, vide query numbers 1, 2, 3, 4 and 5, sought the following information-

“1. Please let me know what the jurisdiction is or which are the competent court where an Investor/client should file an Appeal U/s 34 of the Arbitration and Conciliation Act, against the SEBI/NSE registered Trading Member / Stock Broker, arbitration of which is held under the Arbitration Mechanism of the NSE/SEBI.

2. Where is the Jurisdiction of the Investor/client for filling appeal U/s 34 of The Arbitration and Conciliation Act, challenging the Award passed in favour of the Stock Broker?

3. What happened if the Investor/client files an appeal u/s 34 within the client’s jurisdiction (as per the address of the client) and the Trading Member/ stock broker files objection challenging the jurisdiction of the appeal u/s 34, violating the SEBI Circular no. CIR/MRD/ICC/20/ 2013 dated 05.07.2013 and NSE FAQ relating to the Arbitration mechanism of the SEBI/NSE (point No 35 and 36)?

4. Where the Client should file appeal u/s 34 of the Arbitration and Conciliation Act, against the Trading Member/ stock broker?

5. What is the jurisdiction of the appeal u/s 34 of the Arbitration and Conciliation Act in the Arbitration matter No.: F&O/K-0015/2018 in which the Client/investor address is Dist North 24 Parganas, West Bengal?

4. The respondent, in response to the query numbers 1, 2, 4 and 5, informed that the detailed process related to Arbitration Mechanism in stock Exchanges and the information pertaining to the place of arbitration/appellate arbitration, is provided from page no. 90 onwards of Chapter 6-“Administration of Stock Exchanges and Clearing Corporations” of SEBI Master Circular for Stock Exchanges and Clearing Corporations dated July 05,2021. The respondent also provided the link for accessing the same. The respondent, in response to query number 3, 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. The appellant, in his appeal, *inter alia*, submitted that the respondent refused to provide information regarding jurisdiction of appeal under section 34 of the Arbitration and Conciliation Mechanism. The appellant also submitted that the information sought is specific and important to him.
5. I have perused the above mentioned 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 various issues pertaining to Arbitration Mechanism of the NSE. 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 SEBI Master Circular for Stock Exchanges and Clearing Corporations issued by SEBI on July 05, 2021. Accordingly, I do not find any deficiency in the response. Further, I note that similar queries were previously raised by the appellant in his application dated May 02, 2023 and this forum had passed an order dated July 03, 2023 in Appeal No. 7505 of 2023 with respect to the said queries.

6. **Query number 6-** The appellant, vide query number 6, sought the following information-

“6. Who is the person concern in the National Stock Exchange of India (NSE) responsible for the RTI replies?”

7. The respondent, in response to the aforesaid query, informed that the information sought by the appellant does not pertain to SEBI.
8. I have perused the query and the response provided thereto. I note that the respondent has adequately addressed the query by providing the information as per available record. Accordingly, I do not find any deficiency in the response.
9. Further, the appellant, in his appeal, *inter alia*, alleged violation of SEBI Circular No. CIR/MRD/ICC/20/2013 dated July 05, 2013. On perusal of the appeal, it appears that the appellant has raised certain grievances. In this context, I note that the Hon'ble CIC, in the matter of *Mr. Surendra Vishwakarma vs. President Secretariat* (Order dated April 29, 2016) observed that “*In this context, we note that the RTI Act cannot be used to make the respondent to do certain things or take certain action for the reason that the Act is not the proper law for redressal of grievances/disputes and there are other appropriate forum(s) for resolving such matters.*”. In view of the same, I find that these requests do not warrant consideration by this forum.

10. 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 05, 2023

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