

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

Appeal No. 5614 of 2023

Kowcigan	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated January 05, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated February 02, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00048) dated March 03, 2023. The appeal is being taken up for consideration and disposal today due to personal exigency and intervening holidays. 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. 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.

Queries regarding regulation of Depositories (NSDL, CDSL) in India:

3. **Query numbers 1 and 2-** The appellant, vide query numbers 1 and 2, sought the following information:

*“1. Share the list of functions, activities of depositories that are not under the regulation of SEBI.
2. Share the name of the regulator under who's purview these functions/ activities of depositories will fall.”*
4. The respondent, in response to the aforesaid queries, informed that the queries do not pertain to SEBI. Hence, no information is available with SEBI.
5. I have perused the queries and the response provided thereto. On consideration, 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 *Mrigesh Manubhai Thakkar vs. SEBI*

(order dated December 28, 2016) observed that “*The Commission observes that the respondents can provide only that information which is existing and available with them and the RTI Act does not mandate it for the respondent authority to create information if it is not collected and collated in the normal course of their duties. The Commission, therefore, does not find any need to intervene in the matter. The appeal is disposed of.*” Further, I note that the respondent has categorically stated that the queries do not pertain to SEBI. I note that the queries are also in the nature of seeking clarification/guidance from the respondent and the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. In view of these observations, I find that no further intervention is warranted at this stage.

Queries regarding transfer of securities during closure of demat account:

6. **Query numbers 1, 4, 5 and 6** - The appellant, vide query numbers 1, 4, 5 and 6, sought the following information:
 - “1. *Specify the time frame to be followed by DP, depositories to transfer the securities - by each type of security.*
 4. *Share the list of complaints received in last 3 years against intermediaries for not adhering to the timelines and the action taken by SEBI.*
 5. *Share the finding of the audit conducted by SEBI for adherence to the regulations regarding timely closure of demat accounts and transfer of securities?*
 6. *If no audit has been conducted, please share the regulation/rule/office order under which SEBI has not conducted the audits.*
7. The respondent, in response to the aforesaid queries, informed that the queries are not clear and specific and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. In addition to the same, the respondent informed that query number 1 is also in the nature of seeking clarification. The appellant, in his appeal, *inter alia*, submitted that the respondent is using the said reason for denying the information sought by the appellant. The appellant also submitted that the respondent can seek clarification from the appellant regarding the queries.
8. I have perused the queries and the response provided thereto. With respect to query number 1, I find that the query is in the nature of seeking clarification from the respondent. I note that the all Circulars have been published on the SEBI website and the same are available in the public domain.
9. With respect to query numbers 4, 5, and 6, I agree with the response of the respondent that the queries are not clear and specific. In this context, I note that in the matter of *Mr. T. V. Sundaresan vs. CPIO*,

Securities and Exchange Board of India (Decision dated November 24, 2021), the Hon'ble CIC held: "*The framework of the RTI Act, 2005 expects that the information sought is specific and believed to be existing with the public authority in documented or material form as such; which can be shared with the appellant as per the provisions of the RTI Act. Answering to broad, multiple and general queries and presumptive documents that should have been generated as per the expectation of the appellant cannot be furnished under the provisions of the Act.*" In view of these observations, find that the queries cannot be construed as seeking "information", as defined under section 2(f) of the RTI Act. Accordingly, I do not find any deficiency in the response.

10. Notwithstanding the above, I note that any regulatory action taken by SEBI against any entity, would be available on the SEBI website, which is in the public domain. Further, it is understood that the orders also contain the nature of violations. The appellant may be guided accordingly.
11. **Query number 2-** The appellant, vide query number 2, sought the following information-
"2. Specify the time frame for transfer of locked or unlisted security by DP, depository or RTA as part of the closure of demat account."
12. The respondent, in response to the aforesaid query, informed that unlisted securities do not fall under the purview of SEBI. Hence, no information is available with SEBI.
13. On perused of the query and the response provided thereto, I find that the respondent has clearly informed that unlisted securities do not fall under the purview of SEBI. However, I note that the query regarding "locked security" has not been addressed by the respondent. In view of the same, I find that the query regarding "locked security" warrants reconsideration by the respondent.
14. **Query number 3-** The appellant, vide query number 3, sought the following information-
"3. What is the penalty/action taken if the intermediary does not complete the transfer within the time frame?"
15. The respondent, in response to the aforesaid query, informed that the query is in the nature seeking clarification and accordingly, the same cannot be construed as seeking "information", as defined under section 2(f) of the RTI Act.
16. I have perused the query and the response provided thereto. On consideration, I find that the query is in the nature of seeking clarification from the respondent. The query also appears to be a situational query. 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 *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 any obligation to provide clarification with respect to situational query, under the RTI Act. Accordingly, I do not find any deficiency in the response.

17. Notwithstanding the above, I note that information regarding Acts/ Regulations/ Rules/ Circulars are available on the website of SEBI, which is in the public domain. The appellant may be guided accordingly.

18. **Query number 7-** The appellant, vide query number 7, the appellant sought the following information-

“7. Under which department in SEBI does the governance of DP, Depository and RTAs fall? Please share the names of the head and deputy head in the department responsible for the proper functioning of the department.”

19. The respondent, in response to the aforesaid query, provided the link for accessing the requested information available on the SEBI website. The appellant, in his appeal, *inter alia*, submitted that the SEBI website is not user friendly and search is difficult.

20. I have perused the query and the response provided thereto. On consideration, I find that the requested information regarding functions of departments and Organisation Structure (having the names of the Department/Division Head) can be found out by the appellant himself by accessing the information available on the SEBI website, which is in the public domain. The respondent cannot be expected to research and compile the information which is already available in the public domain and then provide the same to the appellant. In this context, the Hon'ble Delhi High Court in *Registrar of Companies & Ors. Vs. Dharmendra Kumar Garg & Anr.* (order dated June 01, 2012) and the Hon'ble CIC in *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007) *inter alia*, held that if the relevant information is available in the public domain, the same cannot be said to be information held by the

public authority and consequently there is no obligation to provide such information to an applicant under the RTI Act. Notwithstanding the same, I note that the respondent has guided the appellant to access the relevant information which is available in the public domain. In view of the same, I find that the query has been adequately addressed and no further intervention is warranted at this stage.

Queries regarding complaints against NSDL:

21. **Query numbers 1 and 4-** The appellant, vide query numbers 1 and 4, sought the following information-

“1. Specify the count of complaints received against NSDL or DPs under NSDL

4. Specify the count of complaints where the complainant has rated the resolution as unsatisfactory, poor, bad, etc.”

22. The respondent, in response to the aforesaid queries, informed that the queries are vague and not specific and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act.

23. I have perused the queries and the response provided thereto. On consideration, I find that the queries are not specific and the same are broad and general in nature. In view of the order discussed at paragraph 9 *supra*, I do not find any deficiency in the response.

24. **Query numbers 2 and 3-** The appellant, vide query number 2, sought the following information-

“2. In how many of the cases NSDL or the DP entity was determined to be at fault.

3. What are the penalties, action taken in the cases where NSDL or the DP is at fault”

25. The respondent, in response to the query number 2, informed that if any regulatory action is taken by SEBI against any entity, the same would be available in the public domain, on the SEBI website, under the head: Enforcement. The respondent also provided the link for accessing the said website. Further, the respondent advised the appellant to refer to the said website for updated information from time to time. In response to query number 3, the respondent informed that the query is hypothetical and 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. The appellant, in his appeal, *inter alia*, submitted that the SEBI website is not user friendly and search is difficult.

26. I have perused the queries and the response provided thereto. With respect to query number 2 and 3, I note that information regarding any regulatory action taken by SEBI would be available on the website

of SEBI, which is in the public domain. Further, the respondent cannot be expected to research and compile the information which is already available in the public domain and then provide the same to the appellant. Notwithstanding the same, I note that the respondent has guided the appellant to access the information regarding the orders which are available in the public domain. Further, it is reiterated that the said orders also contain the nature of violations. In view of the same, I find that the queries have been adequately addressed and no further intervention is warranted at this stage.

27. **Query number 5-** The appellant, vide query number 5, sought the following information-

“5. In cases where complainant rates the resolution as unsatisfactory or similar, share the process followed by SEBI to address the grievance.”

28. The respondent, in response to the aforesaid query, referred to FAQ (Frequently Ask Questions) Nos. 10 and 31 with respect to the SEBI Complaints Redress System (SCORES). The respondent also provided the link for accessing the said FAQs.

29. I have perused the query and the response provided thereto. On consideration, I find that the respondent has adequately addressed the query by providing the information available with him. Accordingly, I do not find any deficiency in the response.

30. In view of these observations, I remit the application to the respondent for reconsidering query number 2 as discussed in paragraph 13 above and to provide a revised response within 15 working days from the date of receipt of this order.

31. The Appeal is accordingly disposed of.

Place: Mumbai

Date: April 05, 2023

B RAJENDRAN

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