

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

Appeal No. 5626 of 2023

Prasenjit Bose	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated January 31, 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 28, 2023 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00060) dated March 13, 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 access to the requested information was refused. 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 a, b and c** –The appellant, vide his application dated January 31, 2023, sought the following information:
 - a. Whether the SEBI has initiated any investigation on the basis of the revelations made vis-a-vis the Adani Group of companies by the Hindenburg Research Report released on January 24, 2023?*
 - b. Whether the SEBI had received any complaint regarding stock price manipulation, round-tripping, accounting fraud and money laundering against the Adani group of companies prior to the publication of the Hindenburg Report?*
 - c. If so, please provide information on the action taken on such complaint(s).*
4. The respondent, in response to the aforesaid queries, 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. The appellant, in his appeal, *inter alia*, submitted that he had

sought very specific information regarding SEBI inquiry into the share price movement of the companies belonging to Adani Group. The appellant also referred to the order dated March 02, 2023 passed by the Hon'ble Supreme Court in the Adani-Hindenburg matter and stated that the information regarding investigation available in the said order could have been provided by the respondent.

5. I have perused the queries and the response provided thereto. On consideration, I find that the queries of the appellant are in the nature of seeking clarification/confirmation from the respondent regarding investigation initiated by SEBI or complaints received with respect to the allegations made in the Hindenburg Research Report. I note that the CPIO is not supposed to provide clarification; 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 analyse 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 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. Accordingly, I do not find any deficiency in the response.
6. Further, I note that the appellant, in his submissions, *inter alia*, made reference to the Supreme Court order dated March 02, 2023 and stated that SEBI could have provided the information regarding investigation. In this context, I note that the Hon'ble CIC, in the matter of *Mohan Kumar Sharma vs. CPIO, Prime Minister's Office* (order dated November 26, 2019), held that “7. *In view of the above, the Commission observes that under the RTI Act the CPIO provides information available with him or held by him. Thus, the appellant cannot expect the respondent to take certain action or initiate action as desired by him.*” In view of these observations, I do not find any merit in the submissions made by the appellant.

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

“d. Please provide details of the exposure of public sector banks and financial institutions to the Adani group of companies.”

8. The respondent, in response to the aforesaid query, informed that the information is not available with SEBI as the same is not maintained by SEBI in the normal course of regulation of securities market. The appellant, in his appeal, submitted that the query should have been forwarded to the appropriate public authority under section 6(3) of the RTI Act.
9. I have perused the query 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 maintained by SEBI. In my opinion, information can only be provided if it the same is available in the records of the public authority. In this context, I note that the Hon’ble CIC, in the matter of *Lakshminarayanan R vs. SEBI* (order dated February 09, 2023) observed that *“Keeping in view the facts of the case, the Commission observed that the information sought by the appellant regarding Central Depository Services Ltd. was not maintained by the respondent authority in the normal course of regulation of securities market. It is an established law that the information sought for in order to be disclosable under the RTI Act, 2005 must be existent and available in the records..... In the instant case, the desired information was not available in the records of the respondent authority. The CPIO in his reply and written submissions has also sufficiently explained the reason for denial of information in the present case. Therefore, the denial is justified and upheld accordingly.”* In view of these observations, I do not find any deficiency in the response.
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: April 13, 2023

ANAND BAIWAR

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