

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

Appeal No. 5993 of 2024

Ajay Kumar	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated April 05, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 ("**RTI Act**"). The respondent, by a letter dated April 23, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00086) dated April 24, 2024. 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 respondent has filed the appeal on the ground that the information provided is incomplete, misleading or false information.
3. **Request nos. 1 and 5 - 8 of the application** - The appellant, vide his request nos. 1 and 5 - 8 of application dated April 05, 2024, sought the following information:

*"1. Current status of payment by Sai Prasad Corporation Limited to its investors."
"5. I would also appreciate any additional information you can provide on the steps taken by SEBI to address the non-payment issue and protect the interests of investors.
6. Date on which if any order for refund was passed by SEBI or any court.
7. Action taken by SEBI against the company for not paying the refund.
8. what is the procedure for claiming the refund if issued."*
4. **Reply of the Respondent** - The respondent, in response to the aforesaid requests informed that recovery proceedings u/s 28A of SEBI Act, 1992 have been initiated by SEBI against Sai Prasad Group of companies and its directors for failure to refund the money to the investors. Additionally, the respondent informed that the recovery proceedings in the matter of Sai Prasad Group of Companies and its directors are also pending before the Hon'ble MPID Court at Mumbai (case no. 7 of 2016)

constituted under Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act 1999. The respondent also informed that the refund of amount shall be initiated as per the direction of Hon'ble MPID Court, Mumbai and that the procedure / modalities for claiming the refund shall be informed to public after issuance of direction for refund of money by the Hon'ble MPID Court. Further, the respondent informed that all the actions taken by SEBI are available on SEBI's website.

5. I have perused the aforesaid requests and the response provided by the respondent. On consideration, I find that the respondent has adequately addressed the said requests by providing the information available with him. Accordingly, no further intervention of this forum is warranted.
6. **Request nos. 2 and 3 of the application** - The appellant, vide his request nos. 2 and 3 of application dated April 05, 2024, sought the following information:

“2. Details of any ongoing investigation or regulatory action against Sai Prasad Corporation Limited related to non-payment or delayed payment of dues to investors.

3. Any communication or correspondence between SEBI and Sai Prasad Corporation Limited regarding the payment issue.

7. **Reply of the Respondent** - The respondent, in response to requests nos. 2 and 3 of the application, informed that information sought are not clear and specific and are in the nature of seeking clarification. Accordingly, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act, 2005. Further, the information cannot be disclosed as SEBI conducts examinations and investigations confidentially. The respondent further informed that SEBI will neither confirm nor deny the existence of any examinations/investigations. However, any regulatory actions taken by SEBI pursuant to the examination are published on SEBI website. Accordingly, the information sought is exempted u/s 8(1)(h) of the RTI Act.
8. I have perused the aforesaid requests and the response provided thereto. With respect to request no. 2 of the appellant, regarding details of ongoing investigation or regulatory action against Sai Prasad Corporation Ltd., I concur with the response of the respondent that, SEBI will neither confirm nor deny the existence of any examinations/investigations. The rationale for neither confirming nor denying existence of any examination/investigation was relied upon by SEBI before the Hon'ble Central Information Commission (hereinafter referred to as “**CIC**”) in *Arun Damodar Sawant vs CPIO, SEBI* (order dated September 26, 2018 in Appeal No. CIC/SEBIH/A/2017/ 137139/BJ). The Hon'ble CIC, in the said matter, accepted the submissions and refused to intervene in the response of the CPIO. Similar observations were also made by the Hon'ble CIC, in the matter of *Anju Sharma vs. CPIO, SEBI*

(order dated September 28, 2020). Notwithstanding the above, I note that the respondent has informed that appellant that any regulatory actions taken by SEBI pursuant to the examination are published on SEBI website. Accordingly, I do not find any deficiency in response of the respondent.

In regard to request no. 3 of the application, I concur with the respondent that the information sought is not clear and specific and are in the nature of seeking clarification. It is an established law that the information sought for in order to be disclosable under the RTI Act, must be clear, specific and available in the records of the public authority. 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 Central Information Commission (hereinafter referred to as "**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."* Further, it is understood 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. I find that the said request cannot be construed as seeking 'information' as defined under section 2(f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or explanation under the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon'ble Central Information Commission 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"* Accordingly, I do not find any deficiency in the response.

9. **Request no. 4 of the application** - The appellant, vide his request no. 4 of application dated April 05, 2024, sought information pertaining any updates or notifications issued by SEBI regarding Sai Prasad Corporation Ltd. and its payment obligations to investors.

10. **Reply of the Respondent** - The respondent, in response to request no. 4, informed that communication/notifications issued by SEBI regarding payment/refund issue are available on SEBI website.
11. I have perused the aforesaid request and the response provided by the respondent. On consideration, I find that the respondent has adequately addressed the said requests by providing the information available with him. Accordingly, no further intervention of this forum is warranted.
12. 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: May 7, 2024

B RAJENDRAN

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