

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

Appeal No. 6002 of 2024

Gaurav Bhawnani	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated April 08, 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 30, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00092) dated May 07, 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. **Requests made in the application** –The appellant, vide his application dated April 08, 2024, sought the following information:

“A. Please provide a copy of the complaints, supporting documents and records of proceedings in the following complaints against Alice Blue Fin Svcs P Ltd. filed with the National Stock Exchange (NSE). If a final order/ arbitral award has been passed, please provide a copy of the same.

- 1. Complaint dated 07.11.2022 filed by Mr. Flavius Francis Dsouza.*
- 2. Complaint dated 10.11.2022 filed by Mr. Shubham Yadav.*
- 3. Complaint dated 11.11.2022 filed by Mr. Shubham Yadav.*
- 4. Complaint dated 28.02.2023 filed by Mr. Shubham Yadav.*
- 5. Complaint dated 14.12.2022 filed by Snivedhitha Ilango.*
- 6. Complaint dated 11.11.2022 filed by Ishita Hardikbhai Fefar.*
- 7. Complaint dated 08.12.2022 filed by Raval Snehal Kanaiyalal.*
- 8. Complaint dated 14.11.2022 filed by Kavita Ashutosh Hatkar.*
- 9. Complaint dated 04.11.2022 by Nikhil Naik.*
- 10. Complaint dated 18.11.2022 by Kunam Harishchandra Reddy.*

B. Please provide a copy of report or reports of the audit conducted by Grant Thornton on behalf of/for the NSE into the safety and safeguards maintained by Alice Blue Fin Svcs P Ltd. in 2022 and 2023.”

3. **Reply of the Respondent** - The respondent, in response to the aforesaid requests informed that the information sought is not maintained by SEBI in normal course of regulation of securities market. Hence the same is not available with SEBI.

4. **Ground of appeal-** The appellant has filed the appeal on the ground that he has been refused access to information requested.
5. I have perused the request and the response provided thereto. I note that the respondent has categorically stated that the requested information is not available with SEBI. I note that the respondent can only provide information that is available in the records. In this context, I note that the Hon'ble Supreme Court of India in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011) held that "*The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.*" Accordingly, I do not find any deficiency in the response of the respondent.
6. Further, on perusal of the appeal, it appears that the appellant expects the respondent to collect and collate such information sought from NSE. The appellant, in his appeal, has, *inter alia*, submitted that as per order dated April 15, 2010 of the Hon'ble Delhi High Court, in the matter of *National Stock Exchange of India Ltd. vs. CIC and others*, NSE is a public authority and falls under the ambit of the RTI Act. In view of the same, the appellant submitted that SEBI being the regulatory authority of NSE, is liable to provide the requested information under the RTI Act. However, I note that the aforesaid order cited by the appellant of a single judge bench has since been stayed by the Division Bench of the Hon'ble Delhi High Court in LPA No. 315 of 2010 vide order dated May 04, 2010 and stay was made absolute on August 21, 2012. Similar observations were also made in the matter of *Chitra Ramkrishna vs. Assistant Director, Enforcement Directorate* [BAIL APPL.2919/2022 & CRL.M. (BAIL) 1188/2022, decided on 09.02.2023], wherein the Hon'ble Delhi High Court held that "*The ingredients of Section 13(1)(d) of the PC Act are not made out in the present case as the Applicant is not a public servant within the meaning of the PC Act. NSE is not a public authority. In this regard, the learned senior counsel for the Applicant had brought to my notice the order dated 04.05.2010 of the Division Bench of the Delhi High Court in LPA No. 315 of 2010 wherein this court stayed the order of the learned Single Judge holding NSE to be public authority. The stay was made absolute on 21.08.2012. Thus, since NSE is not a public authority, the Applicant is not a public servant.*"

7. 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 16, 2024

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