

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

Appeal No. 5863 of 2023

Tushar Harshadkumar Joshi	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 23, 2023 (received by SEBI on September 25, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 26, 2023, responded to the application filed by the appellant. The appellant filed an appeal dated November 23, 2023 (received by the Office of Appellate Authority on November 28, 2023). I have perused the application, the response of the respondent and the appeal and find that the matter can be decided based on the material available on record.
2. Before entering into the merits of this case, I note that the appellant in his appeal has submitted that the respondent has not provided timely response as per the prescribed time limit under the RTI Act. On perusal of the application and the response provided thereto, I note that the application of the appellant was received by Central Assistant Public Information Officer, Western Regional Officer, Ahmedabad, SEBI on September 25, 2023 and the reply was sent by the respondent on October 26, 2023. In this regard, I note that as per section 5(2) of the RTI Act, where an application for information or appeal is given to a Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7. In view of the above, it is observed that the response of the respondent is well within the stipulated time line provided under the RTI Act. Hence, in my opinion, no further intervention in this regard is warranted.
3. **Ground of appeal** - On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant has submitted that he may be provided the desired information within the time limit as per the provisions of the RTI Act.

4. **Request No. 1 of the application** - The appellant, vide request no. 1 of the application, *inter alia*, requested to provide copy of the document pertaining to benefits received by banks for services provided for IPO process and under what rules of SEBI this is done.
5. **Reply of the Respondent** - The respondent, in response to the aforesaid request, 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. However, respondent informed the appellant that he may refer to the SEBI circular CIR/CFD/DIL/8/2010 dated October 12, 2010 in respect of processing fee for ASBA forms to which self-Certified Syndicate Banks (SCSBs) are entitled. The respondent also provided the link to access the said circular. Further, the respondent also informed the appellant to refer to Objects of the Offer>> Offer expenses/Issues related expenses section in the Offer document (Red Herring Prospectus or Prospectus) of any IPO for disclosure related to payments made to SCSBs in the IPO process.
6. I have perused the aforesaid request and the response provided thereto. W.r.t. request no. 1 of the application, 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 Central Information Commission (hereinafter referred to as "**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...*" In view of these observations, I do not find any deficiency in the response of the respondent. Notwithstanding the above, I note that the respondent has provided some relevant references to the appellant to guide him with regard to his request
7. **Request No. 2 of the application** - The appellant, vide request no. 2 of the application, *inter alia*, requested that in accordance with clause 19 and 20 of Schedule III read with Regulation 16 of SEBI (Bankers to an Issue) Regulations, 1994, which banks of Ahmedabad and Gujarat have given information to SEBI in the year 2022 and 2023. Please provide copies of the list of names of all such banks.

8. **Reply of the Respondent** - The respondent, in response to request no. 2, informed that the information sought is vague and not clear. Accordingly, the same cannot be construed as “information”, as defined u/s 2(f) of the RTI Act, 2005.
9. I have perused the requests and the response provided thereto. On consideration, I agree with the response of the respondent that the same is vague and not specific. 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 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, I find that the request 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. Further, I note that the appellant in his appeal has, *inter alia*, submitted that vide request no. 2 of the application, he is seeking information regarding intimation provided by Bank of Baroda, Paladi, Ahmedabad to SEBI in accordance with clause 19 and 20 of Schedule III read with Regulation 16 of SEBI (Bankers to an Issue) Regulations, 1994. I note that the said submission of the appellant is incorrect and that the appellant in his appeal is now seeking new information pertaining to the said matter. As held by the Hon’ble Central Information Commission (hereinafter referred to as “CIC”) in *Harish Prasad Divedi vs. Bharat Petroleum Corporation Limited* (decided on January 28, 2014), an information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage. Accordingly, I find that the said submissions do not warrant consideration at this stage.
10. **Request nos. 3 and 4 of the application** - The appellant, vide request nos. 3 and 4 of the application, *inter alia*, sought the following information:
- (3) With respect to SCORES complaint registration nos.- SEBIE/GJ22/0....28/1, SEBIE/GJ22/0...20/1 and SEBI/GJ22/0.....27/1, please provide copies of the documents on the basis which decision has been given regarding the said investor complaints.
- (4) On what basis was clean chit given to the broker in the decision taken in the complaints referred under point 3 above, and on what basis was the decision taken in the complaint dated 23/02/2023

given to SEBI Executive Director Ahmedabad? Please provide copies of documents regarding the same.

11. **Reply to request nos. 3 And 4 of the application** - The respondent informed the appellant that the SCORES complaints referred in the application do not pertain to him and the same are filed by third party. Hence, the information sought relates to personal information, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individual. The same is, therefore, exempt in terms of Section 8(1)(j) of the RTI Act, 2005.
12. I have perused the aforesaid requests and the response provided thereto. W.r.t. request nos. 3 and 4 of the application, the appellant, in his appeal has, *inter alia*, submitted that the SCORES complaints referred in the application do not pertain to third party and the same pertains to his wife, Anuradha R. Chavada. On perusal of the said SCORES complaints, I note that out of the three complaints referred in the application, only one complaint pertains to Anuradha R. Chavada. Further, I note that the complaint vide letter dated 23/02/2023, referred to in request no. 4 of the application, also does not pertain to appellant and is filed by Anuradha R. Chavada. In regard to providing information pertaining to spouse under RTI Act, I note that, Hon'ble High Court of Delhi vide its decision dated 1/7/2009 [W.P.(C) 803/2009 Vijay Prakash vs. UOI and others] held that "*As discussed earlier, the 'public interest' argument of the Petitioner is premised on the plea that his wife is a public servant; he is in litigation with her, and requires information, - in the course of a private dispute - to establish the truth of his allegations. The CIC has held that there is no public interest element in the disclosure of such personal information, in the possession of the information provider, i.e. the Indian Air Force. This court concurs with the view, on an application of the principles discussed. The petitioner has, not been able to justify how such disclosure would be in 'public interest' : the litigation is, pure and simple, a private one. The basic protection afforded by virtue of the exemption (from disclosure) enacted under Section 8(1)(j) cannot be lifted or disturbed.*". In light of the above, I note that the basic protection afforded by virtue of the exemption from disclosure enacted under Section 8(1)(j) cannot be lifted or disturbed unless the petitioner is able to justify how such disclosure would be in 'public interest'. In view of these observations, I do not find any deficiency in the response of the respondent.

13. 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: December 18, 2023

B RAJENDRAN

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