

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

Appeal No. 5677 of 2023

Sapan Shrivastava : Appellant

Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated April 10, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 04, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00097) dated May 19, 2023, against the said response dated May 04, 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. **Queries in the application** –The appellant, vide his application dated April 10, 2023, sought the following information:

“The BSE SME approves the DRHP of various companies as per SEBI ICDR 2009. As per Salebhai Internet Ltd in terms of the Chapter XB of the SEBI ICDR Regulations, 2009, as amended, our Company has received an in-principle approval letter dated June 22, 2018 from BSE for using its name in this offer document for listing of our shares on the SME Platform of BSE. For the purpose of this Issue, the Designated Stock Exchange will be the BSE. Same claim has been made by Ganesh Telefilms Ltd. 1. Kindly provide us the BSE and SEBI consent or approval for Salebhai Internet Limited and Ganesh Telefilms Ltd. 2. Kindly provide lenders NOC issued in favour of both the companies. Copies must be certified and sent by email as preferred or update in portal”

3. The respondent, in response to the aforesaid queries, informed that the information sought is not available with SEBI. However, the respondent informed that in terms of regulation 106O(1) of the SEBI (Issue of Capital and disclosure Requirements) Regulations, 2009 (“ICDR Regulations, 2009”), “*The issuer making a public issue or rights issue of specified securities under Chapter XB of ICDR Regulation, 2009 shall not file the draft offer document with the Board:*

Provided that the issuer shall file a copy of the offer document with the Board through a merchant banker, simultaneously with filling of the prospectus with the SME exchange and the registrar of companies or letter of offer with the SME Exchange:

Provided further that the Board shall not issue any observation on the offer document.”

4. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false.
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 referred to the relevant regulations dealing with filing of offer document and due diligence certificate. In view of these observations, I do not find any deficiency in the response.
6. Further, I note that the appellant, in his appeal, requested to direct the respondent to collect the information from the exchange and provide the same to the appellant. I am of the view that the respondent is expected to provide only that information which exists with the public authority when it receives an application under the RTI Act. The respondent has categorically stated in his response that the information sought was not available with SEBI. Accordingly, the respondent is not required to obtain such information not available with SEBI, for the sole purpose of providing the same to an applicant under the RTI Act.
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: June 14, 2023

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