

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

Appeal No. 6131 of 2024

Sudhakar Lakshmanaraja	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated August 09, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 19, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00194) dated August 27, 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 he has been refused access to information requested.
3. **Request nos. 1, 5 and 6 of the application** - The appellant, vide his request nos. 1, 5 and 6 of the application dated August 09, 2024 sought the following information:

“1. SEBI’s Official Stance on Crypto currency: - Kindly provide information on SEBI’s current official position on cryptocurrencies, including any public statements, policy documents, or internal communications that outline SEBI’s viewpoint on the regulation, trading, and investment in cryptocurrencies.”
“5. Minutes of Meetings Related to Cryptocurrency: - Please provide copies of the minutes of meetings held by SEBI that discuss cryptocurrencies, Bitcoin ETFs, and other related financial products. This includes meetings with internal committees, industry stakeholders, and any other relevant entities.
6. Policy Decisions and Roadblocks: - Kindly furnish information regarding any policy decisions made by SEBI concerning the regulation of cryptocurrencies and Crypto ETFs, including any identified roadblocks, challenges, or concerns that are delaying or influencing these decisions.”
4. **Reply of the Respondent** - The respondent, in response to request nos. 1, 5 and 6 of the application, informed that the information sought pertains to the internal functioning of SEBI and relates to the systems and procedures followed at SEBI. Further, the said information is strategic in nature, disclosure

of which may hamper the decision making by SEBI in its supervisory and regulatory role. Hence, the information sought is exempt u/s 8(1)(a) of the RTI Act, 2005.

5. I have perused the aforesaid requests and the response provided thereto. With respect to request nos. 1, 5 and 6 of the application, I note that the respondent, in his response, has, *inter alia*, invoked the provisions of Section 8(1)(a) of the RTI Act to deny information to the appellant. In this regard, I concur with the response of the respondent that the information sought by the appellant appears to be strategic in nature and relates to the internal functioning of SEBI. I note that such strategic information, if disclosed, may hamper SEBI's supervisory and regulatory role. In this context, I note that in *ICAI v. Shaunak H. Satya*, [(2011) 8 SCC 781], the Hon'ble Supreme Court held that: - "*The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources.*" In view of these observations, I concur with the response of the respondent that the requested information is exempt from disclosure under section 8(1)(a) of the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent. I note that the appellant, in his appeal has cited a Supreme Court order, *CPIO, Supreme Court Vs. Subhash Chandra Agarwal* (Civil Appeal No. 10044 of 2010). The appellant submitted that the Hon'ble Supreme Court in the said order highlighted that the exemption under Section 8(1)(a) must be applied strictly and only when disclosure would "prejudicially affect" the state's sovereignty, security or economic interest. In this regard, I note that the respondent has clearly stated in his reply that the information sought is strategic in nature, disclosure of the same may hamper the decision-making by SEBI in its supervisory and regulatory role. Hence, I am of the opinion that the respondent has clearly highlighted that the disclosure of the said information may prejudicially affect the supervisory and regulatory role of SEBI and which in turn may affect the economic interest of the State. Accordingly, in my view, the Supreme Court order cited by the appellant further supports the response of the respondent. In view of the above, I do not find any merit in the said submissions of the appellant.
6. **Request nos. 2, 3 and 4 of the application** - The appellant, vide his request nos. 2, 3 and 4 of the application dated August 09, 2024 sought the following information:

"2. Formation of Committees or Working Groups: - Has SEBI constituted or is it part of any committee, working group, or task force dedicated to studying or understanding cryptocurrencies, Bitcoin ETFs, and other crypto-related financial instruments? - Please provide details of any such committees, including their objectives, scope of work, and the members involved.

3. *Engagement with Foreign Experts:* - Is SEBI engaging or has SEBI engaged with foreign experts or international regulatory bodies to seek advice, knowledge transfer, or best practices related to cryptocurrency regulation and the potential listing of Crypto ETFs? - If so, please provide details of these engagements, including the names of the experts, organizations involved, and the nature of their consultation.

4. *Plans for Listing Crypto ETFs:* - Does SEBI have any plans or ongoing discussions to allow the listing of Crypto ETFs or other cryptocurrency-related financial products in the Indian market? - If yes, please provide details of these plans, including any timelines, consultations, and regulatory frameworks being considered.”

7. **Reply of the Respondent** - The respondent, in response to request nos. 2, 4 and 5 of the application, informed that the information sought is in the nature of seeking clarification/opinion. Accordingly, the same cannot be construed as “information” as defined u/s 2(f) of the RTI Act, 2005.
8. I have perused the aforesaid request and the response provided thereto. On consideration, I find that the request of the appellant is in the nature of seeking clarification/opinion from the respondent. 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. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein Hon’ble Central Information Commission, in the said matter, observe 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/advice 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 of the respondent.

9. 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: September 24, 2024

RUCHI CHOJER

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