

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

Appeal No. 5763 of 2023

Roopdarshan	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application (Reg. No. SEBIH/R/T/23/00144) (Transferred from Ministry of Corporate Affairs and received by the respondent through RTI MIS Portal on June 26, 2023) under the Right to Information Act, 2005 ("RTI Act"). The respondent, by a letter dated July 24, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00172) dated July 25, 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 June 26, 2023, sought the following information with respect to complaint dated June 16, 2023 filed against Hero MotorCorp Ltd.:

"a) Please provide me the details of all cases registered against the company Hero MotoCorp under companies Act and other relevant sections and the present status therein today.
b) Please provide me the certified copy of the cases ongoing registered against the company Hero MotoCorp under companies Act and other relevant sections and the present status therein today.
c) Please provide me the copy of the reply (if any received) from the company sent to the MCA / ROC with respect to the mail dated 16.06.2023
d) Please provide me the ATR (Action Taken Report) by MCA / ROC Delhi against the company (Hero MotoCorp) with respect to the mail dated 16.06.2023."
3. The respondent, in response to the aforesaid queries, informed that the information sought by the appellant is not available with SEBI. The respondent also informed that the queries pertain to violation of Companies Act provision with respect to a Company (Hero MotoCorp in this case), which are normally administered by the MCA/ROC and do not fall under the purview of SEBI.

4. **Ground of appeal-** The appellant, in his appeal, inter alia, submitted that the original application (Reg. No. MOCAF/R/E/23/00716) was filed before MCA and that the same was transferred to SEBI. The appellant also requested to forward the application (Reg. No. SEBIH/R/T/23/00144) to ROC/MCA for giving appropriate reply.
5. I have perused the queries and the response provided thereto. I note that the respondent has clearly informed that the requested information is not available with SEBI as the same pertains to MCA/ROC. It is an established law that the information sought for in order to be disclosable under the RTI Act, must be existent and available in the records. In this regard, 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.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."* In view of these observations, I do not find any deficiency in the response provided by the respondent.
6. Notwithstanding the above, I note that the application has been filed with respect to a complaint against Hero MotorCorp Ltd. which was forwarded by the appellant to ROC and MCA vide email dated June 16, 2023. In view of the same, the application (Reg. No. SEBIH/R/T/23/00144) may be transferred to MCA and ROC within 5 working days from the date of receipt of this order, for taking appropriate action under the RTI Act, 2005.
7. The Appeal is accordingly disposed of.

Place: Mumbai

Date: August 24, 2023

ANAND BAIWAR

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