

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

Appeal No. 5595 of 2023

Rajeev Bhatnagar : Appellant
Vs
CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated December 04, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated January 02, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00024) dated January 27, 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. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. In view of the submissions made by the appellant in his appeal, I am dealing with the queries and the response provided thereto, in the following paragraphs.
3. **Query numbers 1 and 2-** The appellant, vide query numbers 1 and 2, sought the following information-

“ 1. As of 31.03.2022, Name of Stock Brokers, who were not issuing Contract Note cum Bill (During Service Tax regime)/Contract Note cum Tax Invoice (After implementation of GST) in the format, as prescribed vide NSE Circular No NSE/INSP/27155 dated 16.07.2014, in violation of Regulation 9 (f), as specified in schedule II-B (2) as regards to - form specified by the stock exchange - of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.

2. Number of Stock Brokers, against whom Regulation No 26 (v) of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and Section 15 F (a), 15 I and 15 J (c) have been invoked during the period 01.04.2015 to 30.09.2022.”
4. The respondent, in response to the aforesaid queries, 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. The respondent also informed that if any regulatory action is taken by SEBI against any

entity, the same would be available in the public domain, on the SEBI website under the head: Enforcement. The respondent also provided the link for accessing the same.

5. The appellant, in his appeal, *inter alia*, submitted that the information provided by the appellant with respect to query number 1 was incorrect since SEBI is always in possession of the desired information as per SEBI Circular No SEBI/SMD/DBA-1/CIR-27/200/25.06.2003 dated June 25, 2003. With respect to query number 2, the appellant submitted that he could not find the desired information on the website.
6. I have perused the query number 1 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 maintained by SEBI in the normal course of regulation of securities market. In this context, I note that the Hon'ble 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. The CPIO in his reply and written submissions has also sufficiently explained the reason for denial of information in the present case. Therefore, the denial is justified and upheld accordingly.*" In view of these observations, I do not find any deficiency in the response.
7. Further, I note that the appellant, in his appeal, made reference to the SEBI Circular No SEBI/SMD/DBA-1/CIR-27/200/25.06.2003 dated June 25, 2003 and *inter alia*, questioned the correctness of the information provided by the respondent. In this context, it is observed that the Hon'ble High Court of Delhi in *Hansi Rawat & Anr. vs Punjab National Bank & Ors.* (LPA No. 785/2012-decision dated January 11, 2013) held that "*The question, as to what inference if any is to be drawn from the response of the PIO of the respondent Bank to the RTI application of the appellants, is to be drawn in the said proceedings and as aforesaid the proceedings under the RTI Act cannot be converted into proceedings for adjudication of disputes as to the correctness of the information furnished.*" The said judgement was also relied upon by the Hon'ble CIC, in the matter of *Naresh Luthra vs. CPIO, IGNOU, Student Evaluation Division* (order dated December 01, 2021). Notwithstanding the said observations, I note that the said Circular dated June 25, 2003 stood rescinded as per the Master Circular No. SEBI/MIRSD/Master Cir-04/2010 dated March 17, 2010. In view of these observations, the submission of the appellant does not warrant consideration at this stage.

8. With respect to query number 2, I note that the information regarding any regulatory action taken by SEBI would be available on the website of SEBI. I find that the respondent has guided the appellant to access the SEBI website, which is in the public domain. I note that 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 the appellant. Accordingly, I find that the query has been adequately addressed and I do not find any deficiency in the response.

9. **Query number 3-** The appellant, vide query number 3, sought the following information-

“3. Which Institutes officials, out of SEBI/NSE/BSE, conducted inspection of Master Capital Services (SEBI Registration No INZ000210539) during the period 10.01.2018 to 07.06.2018 and 10.12.2021 to 04.03.2022.”

10. The respondent, in response to the aforesaid query, informed that the inspection of Master Capital Services Ltd. was conducted by SEBI in March 2018. The respondent also informed that inspection conducted during the period December 10, 2021 to March 04, 2022 was done jointly by SEBI, NSE, BSE, MCX, NCDEX and ICEX. The appellant, in his appeal, submitted that against requested information for inspection period 10.01.2018 to 07.06.2018, information for inspection carried out in March, 2018 (without mentioning specific date/period) has been provided.

11. I have perused the query and the response provided thereto. On consideration, I find that the respondent has clearly provided the information regarding the institutes which conducted the inspection during the period mentioned by the appellant. In my opinion, the query has been adequately addressed and no further intervention is warranted at this stage.

12. 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: February 24, 2023

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