

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

Appeal No. 5454 of 2022

Manan Bhimpuria	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 10, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 07, 2022 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/22/00615) dated October 11, 2022, against the said response dated October 07, 2022. 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. **Query in the application** –The appellant, vide his application dated September 10, 2022, sought the following information:

Kindly guide that attached Chapter 2, Trading Softwares and Technologies and all its sections, Section 1 to Section twelve, specifically Section 5, Trading Terminals are applicable to only brokers and trading members? Does it apply to Individual Investors?
3. The respondent in response to the aforesaid query, informed that the query is in the nature of seeking clarification/opinion and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act.
4. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. The appellant, in his appeal, *inter alia*, submitted that the respondent has denied the information due to misinterpretation of section 2(f) of RTI Act and that the said section empowers him to seek opinion, advice etc. The appellant also requested to impose penalty against the respondent under Section 20(1) and (2) of the RTI Act.

5. I have perused the query and the response provided thereto. On consideration, I find that the query of the appellant is in the nature of seeking clarification/opinion/guidance from the respondent. In this context, I note that the Hon'ble Supreme Court, in the matter of *CBSE and Anr. Vs. Aditya Bondopadhyay and Ors.* [2011 (8) SCC 497] held that *"35 A Public Authority is also not required to furnish information which require drawing of inferences and/or making assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."* In view of these observations, I find that the respondent did not have an obligation to provide such clarification/opinion/ guidance under the RTI Act. Accordingly, I do not find any deficiency in the response.
6. Further, I note that the appellant, in his appeal, requested to impose penalty against the respondent under Section 20(1) and (2) of the RTI Act. In this regard, I note that as per Section 20(1) and 20(2) of the RTI Act, the Central Information Commission or the State Information Commission has the power to impose a penalty or recommend disciplinary action against the Central Public Information Officer or the State Public Information Officer, while deciding on a complaint or a second appeal. Hence, I find that this request is beyond the purview of the First Appellate Authority. Accordingly, the same does not warrant consideration at this stage.
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: November 09, 2022

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