

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

Appeal No. 5793 of 2023

Nitin Goel	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application (Reg. No. SEBIH/R/P/23/00261 dated July 31, 2023 (received by SEBI on August 02, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 22, 2023, responded to the application filed by the appellant. The appellant filed an appeal dated September 05, 2023 (received by the Office of Appellate Authority on September 08, 2023). I have perused the application, the response of the respondent and the appeal and find that the matter can be decided based on the material available on record.
2. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent with respect to query numbers A-1, A-2 and A-3 of the application. In view of the submissions made by the appellant in his appeal, I am dealing with the said queries and the response provided thereto, in the following paragraphs.
3. **Queries raised in the application-** The appellant, vide query numbers A-1, A-2 and A-3, sought the following information:

*“A-1) Copy of SEBI Rules and Regulations concerning sale of pre-IPO and/or pre-listing shares.
A-2) Whether broking houses registered with SEBI can sell pre-IPO and/or pre-listing shares which are obviously without any Stock Exchange platform.
A-3) Copy of Rules and Regulations governing A-2) above.”*
4. The respondent, in response to query number A-1, informed that the query seeking information regarding Rules and Regulations relating to sale of pre-IPO and/or pre-listing shares is vague. Accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. However, the respondent mentioned that companies proposing IPO are primarily

governed by the Companies Act, 2013 and the SEBI (Issue of Capital and Disclosure Requirements) Regulation, 2018. The respondent also provided the links for accessing the same. With respect to query number A-2, the respondent 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. In response to query number A-3, the respondent informed that the query is not applicable in view of the reply provided with respect to query number A-2.

5. The appellant, in his appeal, *inter alia*, submitted that the PIO has not explained which part of the query he has not understood. Further, the appellant stated that that by no stretch of imagination, asking for copy of rules and regulations is asking for opinion for clarification.
6. I have perused the aforesaid queries and the response provided thereto. On consideration, I find that the aforesaid queries appear to be situational queries. Further, query number A-2 is also in the nature of seeking clarification/opinion from the respondent. In my opinion, the CPIO is not supposed to provide clarification/opinion; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. In the context of seeking replies to situational queries, I note that the Hon’ble CIC, in the matter of *Mr. Mahendra Kumar Mehta vs. CPIO, SEBI* (Judgment dated April 12, 2021), held that: “9. *This Commission observes that the appellant herein attempts to seek legal opinion/clarification from the CPIO to his situational queries with regard to 'the circular, rules, regulations, notification etc. regarding trading member for taking stock in pledge, collateral, or security for providing margin to do trade in reference to derivatives segment, charging of interest and GST, precaution to be taken by trading member for protection of constituents individual/HUF etc.'*. Therefore, the CPIO is not supposed to interpret information; or to furnish replies to situational queries; or to furnish clarifications. Hence, such queries seeking legal opinion/clarification from the CPIO are not covered within the definition of 'information' u/Section 2(f) of the RTI Act, 2005. Accordingly, this Commission upholds the contention put forth by the CPIO.” In view of these observations, I find that the said queries cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act. Accordingly, I do not find any deficiency in the response.
7. Notwithstanding the above, I note that the respondent has guided the appellant to access the relevant act and regulations, which are available in the public domain. Further, the information regarding Regulations/ Circulars/Guidelines etc. issued by SEBI are also available on the website of SEBI, which is in the public domain.

8. Further, on perusal of the appeal, it appears that the appellant requested to initiate penal action against the respondent under the RTI Act. Further, the appellant also requested to grant him costs/ special costs and exemplary costs. 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 powers 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 these requests are beyond the purview of the First Appellate Authority, SEBI.
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: October 04, 2023

ANAND BAIWAR

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