

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

Appeal No. 5147 of 2022

Vinod Kumar Aggarwal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 03, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 31, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated June 21, 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. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. On perusal of the appeal, it appears that the appellant is not satisfied with the response provided with respect to query numbers 1, 2, 4, 5, 6 and 7. In view of the submissions made by the appellant, I am only dealing with the said queries in this order.
3. **Query number 1-** The appellant, vide query number 1, *inter alia*, sought Noting sheets and board meetings leading to the issue of the order MFD/Cir/08/514 of 2002.
4. The respondent, in response to the aforesaid query, informed that the information sought by the appellant is exempt from disclosure under sections 8(1)(a) and 8(1)(d) of the RTI Act as the same pertains to the internal functioning of SEBI and is strategic in nature, disclosure of which may hamper the decision making by SEBI in its supervisory and regulatory role. The respondent also informed that the requested information includes commercial confidential information of other entities, the disclosure of which could harm their competitive position. The appellant, in his appeal, *inter alia*, submitted that the plea of commercial confidential information and information being of strategic nature, is not valid.
5. I have perused the query and the response provided thereto. I note that SEBI, being the regulator of securities market, issues circulars/ guidelines etc. for improving the systems and regulating activities in securities market. SEBI also receives references from various sources, which may include information in the

nature of regulatory inputs. I find that requested information may encompass the inputs received, deliberations conducted and identity of persons involved in the process of formulation of the circulars and same may be strategic and confidential in nature. Disclosure of the same may affect the strategic decision making of the regulator and also compromise the ability of SEBI in obtaining relevant information/ inputs in future. The requested information may also contain confidential information relating to third parties. Further, it may also narrate alternative interpretations of the particular provision of law, their possible consequences in the securities market and the strategies to counter any possible attempt to circumvent the provisions of law. Disclosure of such information may expose these strategies, thereby compromising the interest of securities market in specific and the economic interests of the country in general. In view of the same, I do not find any deficiency in the response.

6. **Query numbers 2, 4 and 5-** The appellant, vide said queries, sought the following information:

“2. Kindly provide Noting sheets of the of the action taken post complaint DOEAF/E/ 1 presumably forwarded by the DGM (who attended to the complaints forwarded by pgportal) and the subsequent discussions held by the concerned department.

4. Kindly provide Noting sheets of the post complaint PMOPG/E/2021/ 49 of 16 Aug 2021, forwarded by pgportal to SEBI and presumably forwarded by the authorized DGM (who attended to the appeal) and the subsequent discussions held by the concerned department

5. In case no action has been taken by the concerned DGM or their staff, what action/punishment is being contemplated against them.”

7. The respondent, in response to the aforesaid queries, informed that the information sought regarding noting sheets are not available with SEBI. The respondent also informed that suggestions received in SEBI are internally discussed and based on consultation with the stakeholders, as applicable, appropriate policy measures are adopted. The appellant, in his appeal, *inter alia*, alleged that the forwarding of complaint has to be on an internal memo.

8. On consideration, I find no reason to disbelieve the response of the respondent that the requested information pertaining to noting sheets are not available with SEBI. I note that the Hon’ble CIC in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: “... if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given.” In view of the same, I do not find any deficiency in the response.

9. **Query numbers 6 and 7-** The appellant, vide query numbers 6 and 7, sought the following information:

“6. Please forward the criteria on which the DGM responding to complaints closed the complaints as suggestion and not complaints when actual losses had been suffered by me as an investor.

7. PPFAS has arbitrarily enhanced the SEBI mandated Load to 2% for less than 1 year and 1% between 1-2 years. Who is the person responsible to monitor that SEBI orders are not flouted and what action is contemplated against the concerned MF for violating SEBI orders. Who is the person responsible for keeping a track of their charges? What action is being contemplated against the concerned person?”

10. The respondent, in response to the aforesaid queries, informed that the queries are not clear and specific and are in the nature of seeking clarification. Accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act, 2005.
11. I have perused the queries and the response provided thereto. I agree with the observation of the respondent that the queries are not clear and specific. Further, it is difficult to ascertain what exact information has been sought by the appellant. In this context, I note that in the matter of *Shri S. C. Sharma vs. CPIO, Securities and Exchange Board of India* (Decision dated August 30, 2012), the Hon’ble CIC held: “*Since the Appellant had not clearly stated what exact information he wanted, the CPIO could not have provided any specific information to him. We would like to advise the Appellant that he might like to specify the exact information he wants from the SEBI and prefer a fresh application before the CPIO.*” Further, I find that the queries are also in the nature of seeking clarification/opinion from the appellant. I note that the respondent is not supposed to create information; or to furnish clarification to the appellant under the ambit of the RTI Act, as was held by the Hon’ble CIC in the matter of *Sonali Sachin Patil vs. SEBI* (order dated January 03, 2022). I find that the appellant’s 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.
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: July 19, 2022

ANAND BAIWAR

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