

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

Appeal No. 5945 of 2024

Ashish Jain	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated February 27, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 ("**RTI Act**"). The respondent, by a letter dated March 07, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00047) dated March 08, 2024. 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** - On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent.
3. **Request no. 1 of the application** - The appellant, vide request no. 1 of his application dated February 27, 2024, sought the following information:

1. "Please share according to which available record basis SEBI Listing department shared information that matter is pertaining to RBI.Refer Score Complaint SEBIP/MH24/00...72/1."
4. **Reply of the Respondent** – The respondent, in response to request no. 1 of the application, informed that the request related to the SCORES complaint Reg. No. SEBIPP/MH24/00...72/1, pertained to HDB Financial Services Ltd., which is not registered with SEBI as an intermediary. Further, the respondent informed that as HDB Financial Services Ltd. is a Non-Banking Financial Corporation (NBFC), registered with Reserve Bank of India., the said complaint was forwarded to Reserve Bank of India.

5. I have perused the aforesaid request and the response provided by the respondent. On consideration, I find that the respondent has adequately addressed the said requests by providing the information available with him. Accordingly, no further intervention of this forum is warranted.
6. **Requests nos. 2, 3 and 4 of the application** - The appellant, vide request nos. 2, 3 and 4 of his application dated February 27, 2024, sought the following information:
2. *“Whether HDB Financial Services ltd has reported Cyber incident-(An Employer-an employee Data Breach Incident) to NSE/BSE under SEBI Act 2015 for period Aug-21 to Nov-21.Please share information.”*
3. *“Whether HDB financial Services ltd has reported Data Breach incident to NSE/BSE under SEBI Act 2015 for Period March-23.Please share information.”*
4. *“Whether HDB Financial Services ltd has reported Goodwill loss information to NSE/BSE (Listing Department) under SEBI Act 2015 during December-23.Please share information.”*
7. **Reply of the Respondent** - The respondent, in response to the requests nos. 2, 3 and 4 of the application, informed that SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 prescribe the disclosure requirements of events/information to Stock exchanges for listed entities. Further, the respondent informed that the said disclosures are available on the websites of Stock Exchanges.
8. I have perused the aforesaid request and the response provided by the respondent. On consideration, I find that the respondent has adequately addressed the said requests by providing the information available with him. Further, I note that the information sought is available in public domain and the respondent has aptly guided the respondent to access the same. Accordingly, no further intervention of this forum is warranted.
9. **Requests nos. 5 and 7 of the application** - The appellant, vide request nos. 5 and 7 of his application dated February 27, 2024, sought the following information:
5. *“Whether NSE/BSE has called to HDB Financial Services ltd after reported Goodwill loss initiation by applicant through multiple emails. Please share information.”*
7. *“Please share available record copy shared by HDB Financial services ltd to NSE/BSE in the reference cyber incident happened during Aug-21 to Nov-21.”*
10. **Reply of the Respondent** – The respondent, in response to requests nos. 5 and 7 of the application, 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.

11. I have perused the aforesaid requests and the response provided thereto. I note that the respondent has categorically stated that the requested information is not available with SEBI. I do not have any reason to disbelieve the said response of the respondent. I note that the respondent can only provide information that is available in the records. In this context, 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. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 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."* Further, the per the submissions of the appellant, in his appeal, it appears that the appellant expects SEBI to collect and compile the information for the appellant from the Exchanges. In the context of power to seek information from Exchanges, I note that the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**"), in the matter of *Shri P. Balachandar vs. CPIO, Securities and Exchange Board of India* (Decision dated March 29, 2012), had held that *"The power vested in SEBI to call for any information from a recognised stock exchange is based on its satisfaction that it is in the interest of trade or public interest to do so. This does not give an unfettered power to the SEBI to call for information from any stock exchange on the request of a citizen under the Right to Information Act"*. Further, a similar view was adopted by the Hon'ble CIC in the matter of *Shri Narotam Dass Goel vs. CPIO, Securities and Exchange Board of India* (Decision dated July 9, 2012). I find that the respondent is only expected to see that the information to be furnished to an applicant is the one which exists with the public authority when it receives an application under the RTI Act. The respondent has categorically stated in his response that the information sought was not available with SEBI. I am of the view that the respondent is not required to obtain such information not available with/held by SEBI, for the sole purpose of providing the same to an applicant under the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent.
12. **Request No. 6 of the application** - The appellant, vide request no. 6 of his application dated February 27, 2024, sought the following information:

6. *"Whether SEBI has directed to NSE/BSE after reported goodwill loss to HDB finance of Rs.5 Crs-(Claimed filed by HDB Finance in ADJ Court No.6) intimation mail by applicant.Please share information."*

13. **Reply of the Respondent** – The respondent, in response to request no. 6 of the application, informed that the request is in the nature of seeking clarification/opinion. Accordingly, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act, 2005.
14. I have perused the aforesaid request and the response provided thereto. On consideration, I find that the request of the appellant is in the nature of seeking clarification/opinion from the respondent. It is understood that the respondent is not supposed to create information; or to interpret information; or to furnish clarification to the appellant under the ambit of the RTI Act. I find that the said request cannot be construed as seeking 'information' as defined under section 2 (f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or opinion under the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon'ble Central Information Commission observed that *"7. The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant are in the nature of seeking explanation/opinion/advice/confirmation/clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/opinions/advices can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. 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 him"* Accordingly, I do not find any deficiency in the response.
15. **Request no. 8 of the application** - The appellant, vide request no. 8 of his application dated February 27, 2024, sought the following information:

8. "Whether HDB Financial Services ltd is listed with NSE/BSE or Not. Please share complete information with record registration detail"
16. **Reply of the Respondent** - The respondent, in response to request no. 8 of the application, informed that as per the available information on the website of NSE/BSE, HDB financial services limited is a debt listed company.
17. I have perused the aforesaid request and the response provided by the respondent. On consideration, I find that the respondent has adequately addressed the said requests by providing the information available with him. Accordingly, no further intervention of this forum is warranted.

18. 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: April 4, 2024

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