

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

Appeal No. 4360 of 2021

Geeta Khattar	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated April 14, 2021 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 07, 2021, responded to the application filed by the appellant. The appellant filed an appeal dated July 02, 2021, against the said response dated May 07, 2021.
2. I note that under Section 19(1) of the RTI Act, an aggrieved person may prefer the first appeal within thirty days from the receipt of the response from the CPIO of the concerned public authority. In the instant case, the impugned response from the respondent is dated May 07, 2021. The appellant, therefore, should have filed the first appeal on or before expiry of thirty days from the date of receipt of the said response. As noted above, the appellant has filed this first appeal on July 07, 2021 i.e. approximately three weeks after the last date permissible under the RTI Act. In this appeal, the appellant has neither requested for condonation of delay nor made any submission regarding the reason for the delay. In the absence of any reason that prevented the appellant from filing the first appeal in time, I consider this appeal as time barred and hence, liable to be dismissed.
3. Notwithstanding the above observation, I consider the appeal on merit. I have carefully considered the application, the responses and the Appeal and find that the matter can be decided based on the material available on record.
4. **Queries in the application** –The appellant, vide her application dated April 14, 2021, sought the following information:

1. *Upload here a copy of IGRP dated November 24, 2015.*

2. *Upload the Exchanges Complaint Form so that against which complaint details IGRP dated November 24, 2015 was called by the Exchange.*
 3. *Provide the Exchange official web link where the data of the same complaint / IGRP dated November 24, 2015 details is electronically saved by the Exchange.*
 4. *Provide the Exchange weblink where copy of IGRP dated November 24, 2015 is electronically saved by the Exchange.*
5. The respondent, in response to query number 1, informed that in IGRP proceedings, complainant is one of the party to the proceedings, appellant is one of the party to the proceedings. Further, as per process, the exchange forwards the IGRP order to the complainant. In the instant cases, IGRP order November 24, 2015 has already been forwarded by exchange and SEBI also uploaded the same on SCORES portal. Hence, the appellant was advised to approach the concerned stock exchange for copy of the IGRP order. In response to query number 2, the respondent observed that the information sought is not available with SEBI. In response to query numbers 3 and 4, the respondent informed that copy of IGRP order dated November 24, 2015 was uploaded on SCORES, pursuant to complaint lodged by the appellant on the SCORES Portal. The respondent also stated that the appellant may directly approach the exchange for the requisite data pertaining to the exchange.
6. **Ground of appeal-** The appellant has filed an appeal on the ground that the access to the information requested was refused.
7. **Query number 1-** I have perused the query and the response provided thereto. I note that the appellant sought copy of order passed by the IGRP. It is understood that the copy of the said order has already been forwarded by the exchange to the complainant. Further, the respondent also stated that the said order has been uploaded on the SCORES portal, against complaint filed by the appellant. I find that the information sought can be accessed by the appellant herself. Further, the information which is already in the possession of the citizen cannot be said to be “held” by the public authority. In this context, reference is made to the matter of *Shri S.P. Goyal vs. Shri Pragati Kumar & Ors.* (order dated January 24, 2008), wherein the Hon’ble CIC held that *“Further, the obligation of a respondent extends only to providing information which it “holds” or controls in terms of Section 2(f) of the RTI Act. If it can be established through evidence that a party/ applicant himself possesses an information which he has sought from a public authority, such information can be denied to him. This appellant has already been provided the judgement dated 30.3.2007 of the Income Tax Appellate Authority. The information, therefore, is already in appellant’s possession and cannot therefore be said to be “held”-much less “exclusively held”-by the public authority in terms of Section 2(j) of the RTI Act.”* In view of these observations, I am of the view that the respondent is not obliged to provide the information sought by

the appellant. Without prejudice to the same, I note that the respondent has guided the appellant to approach the concerned stock exchange. Accordingly, the query number 1 of the application is adequately addressed. Therefore, I do not find any deficiency in the response.

8. **Query number 2-** On consideration, I do not find any reason to disbelieve the observation of the respondent that the information sought is not available with SEBI. In this context, I note that the Hon'ble CIC in the matter of *Sb. 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 these observations, I find that the information sought by the appellant was not available with SEBI and therefore, the respondent cannot be obliged to provide such non-available information.
9. **Query numbers 3 and 4-** I have perused query numbers 3 and 4 and the response provided thereto. I note that the respondent has clearly informed regarding the availability of the IGRP order on the SCORES Portal since the complaint was lodged on the said portal. Further, the appellant was also advised to directly approach the exchange for the requisite data pertaining to the exchange. On consideration, I find that the respondent has adequately addressed the queries by providing the information available with him. Accordingly, I do not find any deficiency in the response.
10. 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 27, 2021

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