

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

Appeal No. 4363 of 2021

Mayank Kumar Agarwal : Appellant
Vs
CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated June 04, 2021 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated June 22, 2021, responded to the application filed by the appellant. The appellant filed an appeal dated July 06, 2021, against the said response dated June 22, 2021. 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. **Grounds of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. On perusal of the appeal, it appears that the appellant is not satisfied with the reply to the queries which have been categorized as seeking “clarification and not information”. In view of the submissions of the appellant, I am only dealing with query numbers 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 in this appeal.
3. **Query numbers 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23-** The appellant, vide said queries, sought the following information pertaining to his complaint filed on the SCORES portal:

2. Why the documents like KYC (which is the binding document for brokerage rate) submitted by the complainant as well as confirmation mail of brokerage rate agreed by the TM was not considered while closing my complaint?

3. Why the ledger demanded by the complainant was not given by the TM?

4. Why my complaint was closed in spite of my repeated objection?

5. Why I was not given any chance to submit my documents and my point of view?

6. Why the matter was not referred to IGRP in spite of my repeated requests?

7. *How many complaints has been filed with SCORE against the said TM during the last 6 months?*
8. *How many complaints have been closed by the SEBI/NSE by their own without the consent of the respective complainant filed with SCORE against the said TM during the last 6 months?*
9. *What is the procedure of referring the matter to the IGRP by the client?*
10. *If the NSE closed my complainant as one sided, what remedies is available with the complainant to take the matter with the IGRP?*
11. *What action will SEBI take against the NSE if it is found that the NSE has repeatedly closed the complaints intentionally and unilaterally without the consent of the complainant against a particular TM?*
12. *Does The NSE close my complaint just because the TM has filed a civil suit for a different matter.*
13. *Why my complaint has been closed when the TM's suit filed in the civil court is nothing to do with my complaint as the nature of my complaint is within the preview of the ISC of NSE and the Civil suites file by the TM is not with in the preview of the NSE?*
14. *As per KYC any dispute between the client and the TM should be reported to the ISC of NSE and/or SCORE of SEBI which the client has done. Why this was not considered?*
15. *Why the NSE/ SEBI has not consider that the TM has filed the suit on 16.03.2021 i.e. after filing of my first complaint on 05.03.2021 which itself proves that it is an afterthought.*
16. *Why the NSE/ SEBI has not consider that my complaint with the TM is for the unauthorised trades/ square off of the position without any intimations and the excess brokerage charged than that of the agreed rate and as mentioned in KYC. Whereas the TM's suit is for enhanced exposure charges?.*
17. *Have any one even heard about any enhanced exposure charges, charged by any TM for which this TM has filled the suite? How funny is this that the NSE is closing all the complaint of the Investors on this bogus point?*
18. *When The TM has not filed any suit about my complaint related to the unauthorized trades/ square off of the position without any intimations and the excess brokerage charged than that of the agreed rate/KYC. Further the TM's suit has nothing to do with my complaint. Then how my matter becomes sub judice ?*
19. *Why my matter has been closed when No court has granted any type of stay order of any nature whatsoever against my complaint?*
20. *Why the NSE/SEBI to close my complaint without any court and why I was not allowed to use my right to refer the dispute with the ISC of NSE and/or SCORE of SEBI.*
21. *Why my complaint has been closed when the resolution of the relevant dispute is exclusively in the domain of the NSE/SEBI and no civil court can intervene in such proceeding? Mere filing of a civil suit cannot be a bar to the proceedings for redress before the NSE.*

22. *It is the established law that any disputes if any will be referred to the Arbitration Mechanism of the NSE/SEBI. Why I was not allowed to use this right?*

23. *It is found that the TM used to file some Civil Suites for some other issues (not related to the complaint but on different issue) in the civil court against the investors and based on that the NSE used to closed the matter just mare on the request of the TM, without giving any chance to the investors to submit his point of view. The NSE also ignores the investors request for referring the matter to the IGRP, Why?*

4. The respondent, in response to all the above queries, observed that the same are in the nature of seeking clarification/opinion and accordingly, cannot be construed as “information” as defined under section 2(f) of the RTI Act. The respondent also observed that the query numbers 2, 3, 5, 6, 9, 10, 12, 13, 14, 17, 18, 19, 21, 22 and 23, are directed towards Exchange or Trading Member.
5. I have perused the queries and the response provided thereto. It appears that the queries are in the nature of seeking clarification/opinion from the respondent regarding disposal of his complaint filed on the SCORES portal. 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 queries cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act. In this context, reference is made to the matter of *Vineet Pandey vs. CPIO, United India Insurance Company Limited* (Judgment dated January 21, 2021), and *Parvinder Singh vs. Public Information Officer under RTI* (Order dated July 19, 2021) wherein similar observations were made by the Hon’ble CIC. Further, in the matter of *Shri Shantaram Walavalkar vs. CPIO, SEBI* (Decision dated January 17, 2013), I note that the Hon’ble CIC held: “... *we would also like to observe that, under the Right to Information (RTI) Act, the citizen has the responsibility to specify the exact information he wants; he is not supposed to seek any opinion or comments or clarifications or interpretations from the CPIO...*”. In view of the said observations, the respondent did not have an obligation to provide such clarification/opinion under the RTI Act.
6. Further, the appellant, in his appeal, has raised grievance regarding filing of suits by a Trading Member and closure of complaints filed against the Trading Member. I note that the Hon’ble CIC, in the matter of *Sh. Triveni Prasad Babuguna vs. LIC of India, Lucknow* (Decision dated September 6, 2012), held: “*The Appellant is informed that ... redressal of grievance does not fall within the ambit of the RTI Act rather it is up to the Appellant to approach the correct grievance redressal forum...*”. Further, in the matter of *Ravindra Mamgain vs. CPIO* (Decision dated May 28, 2021), the Hon’ble CIC held that “*Further, the issue raised by the Appellant regarding theis a matter of grievance which cannot be adjudicated as far as mandate of RTI Act is concerned.*” In

view of these observations, I find that if the appellant has any grievance, the remedy for the same would not lie under the provisions of the RTI Act.

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: August 02, 2021

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