

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

Appeal No. 4365 of 2021

Ashok Kumar Agarwala : Appellant
Vs
CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated May 25, 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 09, 2021, responded to the application filed by the appellant. The appellant filed an appeal dated July 09, 2021, against the said response dated June 09, 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. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. The queries of the appellant and the response provided thereto, are discussed in the following paragraphs.
3. **Query numbers 1, 2, 3 and 4-** The appellant, vide said queries, sought the following information pertaining to M/s SMIFS Ltd. (Trading Member/ TM):
 1. *How much amount this TM has taken from their clients in the Name of SEBI turnover fees across exchanges i.e NSE, BSE and MCX.*
 2. *What is the number of clients of this TM from whom they have collected excess SEBI turnover fees?*
 3. *How much amount of SEBI turnover fees they have refunded to their clients?*
 4. *How many clients have got their refund of excess SEBI turnover fees charged by the TM since last 4 years?*
4. The respondent, in response to the query numbers 1, 2, 3 and 4, informed that the information sought is not available with SEBI as the same is not maintained by SEBI in normal course of regulation of securities market. The appellant, in his appeal, *inter alia*, submitted that the turnover fees and other levies charged by the stock brokers must be maintained by the NSE/SEBI and hence it should be provided to the appellant.

5. On consideration, I do not find any reason to disbelieve the observation that the requested information is not maintained by SEBI in normal course of regulation of securities market. In this context, I note that the Hon'ble CIC in *Mrigesh Manubhai Thakkar vs. Securities and Exchange Board of India* (Order dated December 28, 2016) held that *"The Commission observes that the respondents can provide only that information which is existing and available with them and the RTI Act does not mandate it for the respondent authority to create information if it is not collected and collated in the normal course of their duties. The Commission, therefore, does not find any need to intervene in the matter. The appeal is disposed of."* Further, 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.
6. **Query number 5-** The appellant, vide query number 5, *inter alia*, sought information regarding action taken against the said TM for their illegal activities of collecting excessive statutory charges from the clients. In response to query number 5, the respondent informed that if any action is taken by SEBI, the same would be available in the public domain, on the SEBI website. The respondent also provided the link to access the SEBI website for updated information from time to time.
7. It is understood that SEBI conducts examinations/ investigations confidentially, to examine alleged or suspected violations of laws and regulations relating to the securities market. However, post investigation, whenever violations are established, appropriate enforcement actions are taken under provisions of the SEBI Act, 1992 and Regulations framed thereunder, which culminate in the issuance of orders and the same are available on the SEBI website, which is in public domain. I note that the respondent also provided the link to access the SEBI website. In view of the same, I do not find any deficiency in the response.
8. **Query number 6-** The appellant, vide query number 6, sought the following information –

"6. What are the rights of the client in this regard and what action can the client take against such illegal activities and against whom?"
9. With respect to query number 6, the respondent provided the link for accessing the document enumerating the rights and obligations of the broker and client as prescribed by SEBI and Stock

Exchanges. The respondent also provided the link for accessing the SCORES portal, for lodging a grievance, if any.

10. I have perused the query and the response provided thereto. On consideration, I find that the respondent has adequately addressed the query by providing the information available with him. Further, I note that the appellant has not made any specific submission against the response provided by the respondent. In view of the same, no interference of this forum is warranted at this stage.
11. **Query numbers 7 and 8-** The appellant, vide query numbers 7 and 8, sought the following information-
 7. *Why all the complaints made against this TM with SCORES have been closed without taking any action against the TM and without any Redressal of the complaint filed by the client?*
 8. *Why the Complainant consent is not taken before closing the complaint on sided by the ISC of NSE.*
12. The respondent, in response to the queries, informed that if an investor/ complainant is not satisfied with the redressal of his complaint, he can appeal against the resolution in SCORES or at Exchange. The respondent also provided the link for accessing the grievance mechanism at NSE.
13. On perusal of the queries, it appears that the same are in the nature of seeking clarification/opinion from the respondent regarding procedure followed for disposal of complaints. 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), 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.
14. Notwithstanding the above, I note that the respondent has informed regarding action that can be taken by an investor/ complainant, if he is not satisfied with the redressal of his complaint. I find that the queries have been adequately addressed. Accordingly, I do not find any deficiency in the response.

15. Further, on perusal of the appeal, it appears that the appellant has grievance regarding the activities of the TM and handling of complaints on the SCORES portal. 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...*". 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.
16. 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 04, 2021

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