

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

Appeal No. 4367 of 2021

Aarti Harshad Patil : Appellant
Vs
CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated September 12, 2020 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 05, 2020 responded to the application filed by the appellant. The appellant filed an appeal dated July 13, 2021, against the said response dated October 05, 2020.
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 October 05, 2020. 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 13, 2021 i.e. approximately eight months 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 response 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 September 12, 2020, sought the following information:
 1. *How many investors have filed complaint against Anugrah Stock & Broking Pvt Ltd and status thereof.*
 2. *Record of all communication between Anugrah Stock & Broking Pvt Ltd and SEBI, NSE and BSE*
 3. *Any other matter which is of importance in the matter of Anugrah Stock & Broking Pvt Ltd*

4. *As per circular SEBI/HO/MIRSD/DPIEA/CIR/P/2020/115, dated 1st Jul 2020, What is the status of implementation in Anugrah Stock & Broking Pvt Ltd case.*
5. The respondent, in response to the query number 1, informed the number of complaints received by SEBI against Anugrah Stock Broking Pvt Ltd., during the period from April 01, 2020 to September 15, 2020. With respect to query numbers 2 and 4, the respondent informed that SEBI will not be able to confirm/deny the existence or otherwise of any examination/ communication notes in the matter for which information has been sought by the appellant. The respondent also informed that the requested information is exempted under Section 8(1)(d) of the RTI Act. However, it was informed that NSE is conducting forensic audit and based on the findings, if any, SEBI may take appropriate action as deemed fit. Further, any such proceedings for action is conducted confidentially because of their sensitive nature. It was also informed that pursuant to examination/ analysis, if any regulatory action is taken by SEBI, the same would be available in the public domain, on the SEBI website. With respect to query number 3, the respondent observed that the query is vague and not specific and accordingly, cannot be construed as seeking “information” as defined under section 2(f) of the RTI Act.
6. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. The appellant, in her appeal, reiterated the queries raised in her application.
7. **Query number 1-** I have perused the query and I find that the respondent has provided the information regarding number of complaints received by SEBI against Anugrah Stock & Broking Pvt Ltd. On perusal of the appeal, I note that the appellant has not made any specific submission against the response provided by the respondent. In this regard, I note that the Hon’ble High Court of Delhi in the matter of *Ms Vandana Mittal v. CIC and Others* [W. P. (C) 7244/2009] held that if no ground for interference in the impugned response is made out in the appeal, such appeal is liable to be rejected. In view of these observations, I find that no interference is warranted at this stage.
8. **Query numbers 2 and 4-** I note that the appellant had sought record of all communication between Anugrah Stock & Broking Pvt Ltd and SEBI, NSE and BSE. The appellant also sought status of implementation of SEBI Circular dated July 01, 2020 with respect to the case of Anugrah Stock & Broking Pvt Ltd. On consideration, I note that a response neither confirming nor denying existence of examination/ communication notes, is justified where disclosure of existence of examination or otherwise would itself amount to disclosure of exempted information. It is understood that SEBI receives alerts and references from various sources and these may or may not result in further action by SEBI such as examination or investigation. Further, such examination or investigation may or may not

establish the suspected violations or lead to enforcement actions. Maintaining confidentiality of investigation is important since reports of an investigation may result in unwarranted speculation or concern in the market or may affect evidence collection during the investigation or may result in unnecessary harm to third parties. Further, the respondent informed that if any regulatory action is initiated by SEBI pursuant to the examination/analysis, the same would be available on the website of SEBI. In view of these observations, I agree with the response that SEBI will not be able to confirm/deny existence of examination in the present matter.

9. I note that the respondent also denied the requested information by invoking the provisions of sections 8(1)(d) of the RTI Act. In this regard, I am of the opinion that SEBI, being the regulatory authority for the securities market, gets various references/documents from market participants and the information contained in those documents may contain information in the nature of commercial confidence, disclosure of which may adversely impact the competitive position of the concerned entities. Having regard to the aforesaid, I find that the disclosure of the requested information may cause irreparable damage to the reputation of that entity and may also affect its competitive position and therefore, the same is exempted from disclosure under section 8(1)(d) of the RTI Act. Accordingly, I do not find any deficiency in the response.
10. **Query number 3-** Upon a perusal of the query, I note that the same is vague. Further, it is difficult to ascertain what exact information has been sought by the appellant. I am inclined to agree with the observation of the respondent that the request for information made therein was vague and not specific and the same cannot be construed as seeking “information” as defined under section 2(f) of the RTI Act. 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.*” In view of these observations, I find that the respondent is not obliged to provide a response where the information sought is vague and not specific. Accordingly, I do not find any deficiency in the response.

11. 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 09, 2021

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