

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

**Appeal No. 1592 of 2012**

Madanmohan Gopaldas Rathi	:	Appellant
	Vs.	
CPIO, SEBI, Mumbai	:	Respondent

**ORDER**

1. The appellant had filed an application dated October 29, 2012 under the Right to Information Act, 2005 (hereinafter referred to as "**RTI Act**"). The respondent vide letter dated November 27, 2012, responded to the appellant. The appellant has filed this undated appeal which was received at SEBI on December 24, 2012, against the said response. 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. From the appeal, I note that the appellant is aggrieved by the respondent's response to the following queries as reproduced from his application, viz. –
  - i. *"A certified copy of the Citizens Charter issued by your department.*
  - ii. *As per the Citizens Charter, in how many days, the department is supposed to dispose of the complaint of the investor.*
  - iii. *The action taken or any remark made on the complaint by the officers of the SEBI after receiving the same.*
  - iv. *Any communication sent to India Bulls Securities Ltd. (hereinafter referred to as "**ISL**") by SEBI. If yes, a copy of the same.*
  - v. *The period since which the matter was pending with SEBI.*
  - vi. *Please inform me the reason under section 4(1)(d) of the RTI Act for keeping matter pending and not taking any action, since I am an affected person.*
  - vii. *Please provide me certified copies of any instructions received from any higher authority of your department or any other competent authority which has instructed the officer in charge of the complaint for making delay or for not taking any action on the complaint.*
  - viii. *Inspection of all papers, documents including all file notes concerning my complaint."*
3. **Queries at point nos. 2(i) - (ii) above** - In his response, I note that the respondent had informed the appellant that the information sought by him was not available with the concerned department/division of SEBI.

4. In this appeal, the appellant while submitting that "*it can be presumed that SEBI is working without a Citizens Charter and secondly, I had asked the time limit to take up the complaint of the investor*", has contended that the information sought has not been provided to him, by the respondent.
  
5. I note that the appellant was clearly informed by the respondent that the information as requested by him, was not available with the concerned department/division of SEBI. I do not find any reason to disbelieve the response provided by the respondent. I note that the Hon'ble Supreme Court of India in the matter of *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011), had *inter alia* 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*". In view of these observations, I find that the respondent cannot be obliged to provide the information sought by the appellant, in his application, as such information was not available with the concerned department/division of SEBI.
  
6. **Queries at point nos. 2(iii) - (v) and 2(vii) - (viii) above** - In his response, I note that the respondent had *inter alia* informed the appellant that his complaint having Ack. Ref. No. 2007/0003109/01 dated February 8, 2007, was shown as resolved as per ATR no. 150407 dated June 15, 2007. The respondent had also informed the appellant that other details regarding the aforesaid complaint was not available with the concerned department(s)/division(s) of SEBI. Further, the appellant was informed that as there were no notings, filings or additional documents pertaining to his complaint, inspection would not serve any purpose.
  
7. In this appeal, the appellant has submitted that the respondent had provided him with irrelevant information. The appellant has submitted that since he was only interested in knowing the action taken on his abovementioned complaint, he was entitled to receive such information under section 4(1)(d) of the RTI Act. Further, the appellant has sought additional information through the following queries -
  - i. "*What is ATR No. and can SEBI unilaterally dispose of the complaint without informing to the complainant?*"
  - ii. "*How the complaint has been disposed of, whether any action has been taken on the basis of the complaint or just closed one sided?*"
  - iii. "*Is SEBI genuinely doing something for the common investors? Any Govt. department taking action against big corporates seems bleak?*"

8. As regards the appellant's contention that he was entitled to receive information under section 4(1)(d) of the RTI Act, I note that the Hon'ble CIC in the matter of *Shri Virchand A. Shah vs. Central Excise Department* (Decision dated June 18, 2008), had held that:

*"I'm afraid the appellant is carrying a misconception about the provisions of Section 4(1)(d), which states that 'Every public authority shall provide reasons for its administrative or quasi-judicial decisions to affected persons'. Section 4 of the RTI Act enumerates the various obligations of the public authorities under the RTI-regime for proper maintenance and easy dissemination of information. Sub-section 4(1)(d) should be seen in this content and not as a commandment that each time an applicant demands it, reasons for administrative and quasi-judicial actions be disclosed. ... it would be a fallacy to conclude that all public authorities are obliged to provide post facto reasons to the RTI-petitioners in all administrative and quasi-judicial matters previously decided. The right of a citizen to get information from a public authority is conditioned by Section 2(f) subject to exemption Sections of the RTI Act. To further elaborate it, it would be impossible for any public authority to give reasons for the administrative/quasi judicial decisions taken by them in the past because it would virtually amount to asking the present incumbent to read the mind of that authority which passed or took the decision, at an earlier point of time. The reasons for any decision are those as may be found in the body of the decision itself, or from the file in which that decision was made. This is what Section 4(1)(d) implies. In consideration, it is held that the present request by the appellant seeking reasons for a decision which has been already taken by an authority cannot be regarded as an existing 'information' as defined under Section 2(f) of the RTI Act."*

In this context, I find that the appellant was clearly informed that his complaint having Ack. Ref. No. 2007/0003109/01 dated February 8, 2007, was shown as resolved as per ATR no. 150407 dated June 15, 2007. Accordingly, in view of the abovementioned observations of the Hon'ble CIC, I find no deficiency in the response provided by the respondent to the appellant.

9. Without prejudice to the foregoing, I find that the queries as discussed at para 7 supra have been raised for the first time at this appeal stage. A request at first appeal, different from what the appellant had raised with the respondent is impermissible, as held by the Hon'ble CIC in the matters of *Anil K. Sabore vs. CPIO, Coast Guard Headquarters* (Decision dated July 13, 2006), *Ms. Farhana Haneef, Aligarh vs. SBI, Mumbai* (Decision dated December 21, 2011) and *Shri. Ajit Kumar Roy vs. Inland Waterways Authority, NOIDA* (Decision dated February 8, 2012). If the appellant wants any new information, he is free to approach the respondent with application fees and additional fees for cost of information, as envisaged under the RTI Act and Rules.
10. **Query at point no. 2(vi) above** - In his response, I note that the respondent had informed the appellant that the information sought was in the nature of seeking reason and hence, the same could not be construed as 'information', as defined under section 2(f) of the RTI Act.

11. In this appeal, the appellant has *inter alia* submitted that he had not sought any reason but rather only a copy of his complaint, the remarks put on such complaint and how the same was disposed of.
12. On a perusal of the query at point no. 2(vi) above, I find that the information sought therein, was an inquisition inviting/soliciting response from SEBI in the nature of seeking reason, etc. Further, I find that the appellant had not requested for any 'information' as defined under section 2(f) of the RTI Act. In this context, I note that the Hon'ble Supreme Court of India in the matter as discussed at para 5 supra, had held that: *A public authority is "...not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provided advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act"*. In view of these observations, I find that the respondent cannot be obliged to provide a response to such a query, as raised by the appellant, in his application.
13. In this appeal, I note that the appellant, while stating *"I had gone for IGRP with NSE"*, has prayed for the settlement of his complaint with ISL. Upon a consideration of the appellant's prayer in light of the queries made in his application, it would appear that he has a grievance against ISL. In this regard, if the appellant has any grievance, the remedy for the same would not lie under the provisions of the RTI Act. For this purpose, the appellant is free to approach such forum that may have the power to address the grievance, as was held by the Hon'ble CIC in the matter of *Hari Shanker Mishra vs. CPIO, SEBI and Anr.* (Decision dated April 30, 2009). Further, in the matter of *Sh. Triveni Prasad Babuguna vs. LIC of India, Lucknow* (Decision dated September 6, 2012), the Hon'ble CIC had adopted a similar view in holding: *"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 the remedy for the appellant's grievance would not lie in an appeal under section 19(1) of the RTI Act.
14. In view of the above, I find that there is no need to interfere with the decision of the respondent. The appeal is accordingly dismissed.

Place: Mumbai

Date: January 8, 2013

S. RAMAN

APPELLATE AUTHORITY  
SECURITIES AND EXCHANGE BOARD OF INDIA