

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

Appeal No. 3924 of 2020

Vasant Shankarnarayan Rao : Appellant
Vs.
CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated June 29, 2020 (received by the respondent on July 13, 2020) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 05, 2020, responded to the application filed by the appellant. The appellant filed an appeal dated September 10, 2020 (received by the Office of Appellate Authority on September 22, 2020), against the said response dated August 05, 2020 (received by the appellant on September 09, 2020). 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. **Queries in the application** –The appellant, vide his application dated June 29, 2020, sought the following information:
 1. *Whether the transfer of shares in physical form by way of gift is also treated as transmission (i.e. transfer of title of shares by way of inheritance/ succession) as per clarification in PR No. 12/2019.*
 2. *How many share holders in Karnataka Bank Limited (SIN No.) are holding shares in physical form. Please indicate number of shareholders and aggregate face value of shares held in physical form.*
3. The respondent, in response to query number 1, observed that the same is in the nature of seeking clarification and does not fall under the definition of information under section 2(f) of the RTI Act. With respect to query number 2, the respondent informed that the requested information is not available with SEBI as the same is not maintained by SEBI in normal course of regulation of securities market.
4. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant, in his appeal, sought copies of records, documents,

memos, emails, advices, Circulars, logbooks etc. directly relating to the decision taken by SEBI Board under Section 2(f) of the RTI Act, 2005, leading to the issue of PR No. 12/2019. Additionally, the appellant also sought copy of Circular No. SEBI/HO/MIRSD/DO S3/CIR/P/2018/139 dated November 06, 2018. Further, the appellant submitted that the information should be available with the appellant.

5. **Query number 1-** On perusal of the query, I find that it is rightly considered to be in the nature of eliciting a clarification or opinion of the respondent, and the same cannot be construed as information as defined u/s 2 (f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or opinion under the RTI Act. In this context, 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), *inter alia* held: "*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".* 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...*". Accordingly, I do not find any deficiency in the response.

6. **Query number 2-** I do not find any reason to disbelieve the observation that the details sought by the appellant, are not maintained by SEBI in the normal course of regulation of securities market. In this context, I note that the Hon'ble Supreme Court of India in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011) 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." (Emphasis supplied). Further, the appellant, in his appeal, has referred to the SEBI Circular dated November 05, 2019, and *inter alia* submitted that the requested*

information should be available with SEBI. In this regard, I note that SEBI, vide circular dated November 05, 2019, *inter alia* directed all listed companies or their RTAs, to provide data of their members holding shares in physical mode, as on March 31, 2019, to the Depositories. 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.

7. Further, the appellant, in his appeal, sought copies of records, documents, memos, emails, advices, Circulars, logbooks etc., directly relating to the decision taken by SEBI Board under Section 2(f) of the RTI Act, 2005, leading to the issue of PR No. 12/2019. In addition to the same, the appellant also sought copy of Circular dated November 06, 2018. On perusal of the application dated June 29, 2020, I find that these requests did not form part of the said application. I also find that the said requests were raised by the appellant for the first time in this appeal. As held by the Hon'ble CIC in *Harish Prasad Divedi vs. Bharat Petroleum Corporation Limited* (decided on January 28, 2014), an information seeker cannot be allowed to expand the scope of his RTI enquiry at appeal stage.
8. 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: October 20, 2020

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