

BEFORE THE APPELLATE AUTHORITY
(Under the Right to Information Act, 2005)
SECURITIES AND EXCHANGE BOARD OF INDIA
Appeal No. 1031 of 2010

Santoshi Varma	:	Appellant
	Vs.	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 29, 2010 under the Right to Information Act, 2005 (RTI Act). The respondent, vide letter dated October 25, 2010, responded to the appellant. Aggrieved by the said response, the appellant has filed this appeal dated November 23, 2010 (received on November 25, 2010).
2. I have carefully examined the application, the response and the appeal and find that the matter can be decided on merit based on the material available on record.
3. **Item 3(iii)(a):** The appellant had sought: *"Number of brokers against whom show cause notices has been issued by SEBI for irregularities observed by SEBI in connection of Power of Attorney obtained by broker from clients."* The respondent stated that the information sought was not available with the concerned departments of SEBI. The appellant has disputed this finding of the respondent and has argued that the respondent should have transferred the application to that extent to the department which has the information as soon as practicable but in no case later than 5 days from the date of receipt of his application as per section 6(3) of the RTI Act. I find that the section 6(3) is applicable when the information is held by another public authority; or the subject matter of which is more closely connected with the functions of another public authority. In this case, both of these ingredients are absent. I, however, find that the information sought by the appellant was pertaining to the number of show cause notices issued by SEBI. Hence SEBI is the relevant public authority in this case. and the point to decide is the availability of information sought by the appellant with SEBI and not with the concerned departments of SEBI. The respondent ought to see whether the information sought by the appellant is available with SEBI and if available, the disclosability of the same under the RTI Act etc.

4. **Item 3(iii)(b):** The appellant had sought: “*Copies of internal file notings of SEBI for issuing the Circular No. CIR/MRD/DMS/13/2010 dated 23rd April 2010 and clarification issued on vide Circular No. CIR/MRD/DMS/28/2010 dated 31st August 2010.*” The respondent declined the same under section 8(1)(d) of the RTI Act. Though the respondent stated that the information sought by the appellant was in the nature of commercial confidence and internal functioning of the SEBI, it has not explained how the disclosure of the information could harm the competitive position of the third party.

5. In view of the above, I remit the application dated September 29, 2010 to the respondent for de-novo consideration, within 15 days from the receipt of this Order.

Place: Mumbai
Date: December 8, 2010

PRASHANT SARAN
APPELLATE AUTHORITY
SECURITIES AND EXCHANGE BOARD OF INDIA