BEFORE THE APPELLATE AUTHORITY
(Under the Right to Information Act, 2005)
SECURITIES AND EXCHANGE BOARD OF INDIA
Appeal No. 1178 of 2011

Narotam Dass Goel	:	Appellant
	Vs.	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated April 12, 2011 under the Right to Information Act, 2005 (RTI Act) through the postal department. The respondent, vide letter dated April 28, 2011, responded to the appellant. Aggrieved by the response of the respondent, the appellant has filed this appeal dated May 18, 2011 through the postal department (received on May 23, 2011).

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. In this appeal, the appellant is aggrieved by the refusal of information by the respondent on the ground that the information is not available with SEBI and also not sought from Stock Exchange in the normal course. He has argued that the respondent has not appreciated section 2(f) to access information from the National Stock Exchange of India Ltd. (NSE) with respect to its arbitration.

4. I find that the respondent has no obligation to access or collect any information from NSE for the sole purpose of providing the same to the appellant under the RTI Act. The respondent is only expected to see that the information to be furnished to an applicant is the one which exists with the public authority when it receives an application under the RTI Act. The Hon'ble CIC in the matter of Ms. Shobha Upadhyay Vs. Ms. Satinder Kaur (Order dated July 16, 2009) rightly interpreted the word 'accessed under the Law' to means information which the public authority holds. Further, the issue as to whether SEBI can access any information from the Stock Exchanges as envisaged under section 2(f) under the RTI Act to provide the same to the RTI applicants has earlier been considered by the Hon'ble CIC in the matter of Bhojraj Sahu Vs. SEBI and some other matters. It answered this issue in affirmative. The decisions of Hon'ble CIC asking SEBI to procure the information from exchanges are stayed by the Division Bench of the Hon'ble High Court at Mumbai. Yet another decision in matter of S.P. Sharma Vs. SEBI (Order dated June 19, 2009), the Hon'ble CIC held that the question of whether Stock Exchanges are public authority is still unsettled in view of the High Courts' orders staying the operation of CIC's decision of June 07, 2007. As long as that CIC order is under High Courts' stay, no Stock Exchange can be said to be a public authority.

5. In view of the above, I do not find any reason to interfere with the decision of the respondent. The appeal is accordingly dismissed.

Place: Mumbai
Date: June 13, 2011

PRASHANT SARAN
APPELLATE AUTHORITY
SECURITIES AND EXCHANGE BOARD OF INDIA