

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

Appeal No. 5533 of 2022

Ashok Kumar Jain	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated November 04, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 ("RTI Act"). The respondent, by a letter dated December 01, 2022, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No SEBIH/A/E/22/00669) dated December 13, 2022.
2. The appellant, in the appeal, has made a request for personal hearing. On the issue of providing an opportunity of hearing by the First Appellate Authority (FAA) under RTI Act, a full bench of Hon'ble CIC in *Bombay Stock Exchange Limited vs Securities and Exchange Board of India* (File No. CIC/SM/A/2011/001687) observed that "*It is not practical to lay down an inflexible rule that PIOs and AAs will always offer an opportunity of hearing to the parties, let alone to the 3rd party. They may do so as per their discretion, keeping in view the complexity of legal and factual issues involved, without forgetting that timelines are to be adhered to, being the essence of the Act.*" Therefore, it is noted that there is no specific requirement under the provisions of the RTI Act, of providing a personal hearing by the FAA and that the discretion to give hearing to the appellant shall be exercised considering the complexity of the issues involved and the timelines specified under the RTI Act. In this context, reliance is also placed on the decisions of the Hon'ble CIC in the matters of *Mr R.K Jain vs. UPSC* (Decision dated March 10, 2014). In view of the above observations, I have carefully considered the application, the response and the appeal. I note that the grounds of appeal are self-explanatory. Hence, the matter can be decided based on the material that is available on record.
3. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent with respect to query number 2 of the application. In view of the submissions made by the appellant in his appeal, I am only dealing with the said query and the response provided thereto, in this order.

4. **Query number 2-** The appellant, in his application, made reference to his email dated September 12, 2022 addressed to the Chairperson, SEBI and stated that he had lodged a complaint regarding money laundering by C H P Finance Pvt. Ltd. in a matter relating to manipulation of stock price of a scrip - Sunrise Asian Ltd. The appellant, vide query number 2, sought the date of referring the case to Enforcement Directorate by SEBI.
5. The respondent, in response to the aforesaid query, informed that the requested information is exempt from disclosure under section 8(1)(a) and 8(1)(h) of the RTI Act as the same is shared between regulatory bodies and is highly confidential and strategic in nature and any disclosure of details related to the matter may hamper the decision making by SEBI in its supervisory and regulatory role. Further the disclosure of any information may impede the process of investigation or apprehension or prosecution of offenders. The appellant, in his appeal, *inter alia*, submitted that the exemption under section 8(1)(a) is not applicable to SEBI. The appellant also submitted that the CPIO has not stated any cogent reasons supported by material evidence as to how mere disclosure of date of reference shall impede the investigation into money laundering by ED.
6. I have perused the aforesaid query and the response provided by the respondent. On consideration, I do not find any reason to disbelieve the response of the respondent that the information shared between regulatory bodies is highly confidential and strategic in nature. In certain cases, neither confirming nor denying existence of examination or investigation or any contemplated action to be taken may be justified where disclosure of existence of investigation or otherwise would itself amount to disclosure of exempted information. SEBI receives alerts and references from various sources and also makes references to various other regulatory bodies. These references may or may not result in further action. Further, such examination or investigation may or may not establish the suspected violations or lead to enforcement actions. Maintaining confidentiality of examination or investigation or contemplated action is important since such reports 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. Such information, if revealed, could give an inkling to the strategic issues involved in the matter and may even forewarn the violators. In view of these observations, I find that the requested information is exempt from disclosure under section 8(1)(a) of the RTI Act.

7. In view of the above observations, I find that there is no need to interfere with the decision of the respondent. The Appeals are accordingly dismissed.

Place: Mumbai

Date: January 12, 2023

ANAND BAIWAR

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