

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

Appeal No. 5769 of 2023

Manish Sehgal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 07, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 05, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00174) dated August 03, 2023. 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. 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. **Request in the application** –The appellant, in his application June 07, 2023, enclosed five applications sent to Link Intime India Pvt. Ltd. (RTA) under the RTI Act, 2005 and sought the following information:

“I have written 5 RTI applications (from feb 2023 to june 2023) to Linkintime, Mumbai who is registrar & transfer agent for Vinati Organics Ltd. They have not provided me any information till date. All the applications are attached alongwith. Kindly get me the information from them or SEBI should direct them to provide the asked information to me at the earliest. Since RTA comes under SEBI so these RTI application are resubmitted to Linkintime through SEBI.”

4. The respondent, in response to the application, informed that the requests are in the nature of seeking clarification/opinion and accordingly, the same cannot be construed as seeking “Information”, as defined under section 2(f) of the RTI Act, 2005. The respondent also informed that the RTI Act, 2005 is only applicable to Public Authority. Further, the respondent provided information regarding lodging of grievance, if any, on the SCORES portal of SEBI and tracking the status of the same. The respondent also provided the toll free helpline numbers launched by SEBI to facilitate replies to various queries of the general public on matters related to securities market. The appellant was also advised to refer to the FAQs on “Investor Grievances- SCORES”, available on the SEBI website. The respondent also provided the link for accessing the said FAQs.
5. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. The appellant, in his appeal, *inter alia*, stated that the RTA is not following the Circular dated November 06, 2018. The appellant also stated that the RTA is not sharing the requested information.
6. I have perused the application and the response provided thereto. I note that the appellant has enclosed five RTI applications addressed to Link Intime India Pvt. Ltd. and requested to get the requested information from them. In this regard, I note that the respondent has categorically informed that the RTI Act, 2005 is only applicable to Public Authority. Further, I am of the view that the respondent is expected to provide only that information which exists with the public authority when it receives an application under the RTI Act. Accordingly, the respondent is not required to obtain such information not available with SEBI, for the sole purpose of providing the same to an applicant under the RTI Act.

7. I also note that the appellant, in his application, requested to direct the RTA to provide him the requested information. In this regard, the Hon'ble CIC, in the matter of *Mohan Kumar Sharma vs. CPIO, Prime Minister's Office* (order dated November 26, 2019), held that “7. *In view of the above, the Commission observes that under the RTI Act the CPIO provides information available with him or held by him. Thus, the appellant cannot expect the respondent to take certain action or initiate action as desired by him.*” In view of these observations, I find that the request made by the appellant, does not warrant consideration under the RTI Act.
8. Further, from the appeal, it appears that the appellant has grievance against the RTA regarding non-compliance of certain Circular. In this regard, the appellant may lodge complaint on the SCORES portal of SEBI, which enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online from the SCORES website.
9. 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

B RAJENDRAN

Date: September 01, 2023

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