

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

Appeal No. 5066 of 2022

Hitesh Himatbhai Solanki	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated February 04, 2022 (received by SEBI on February 12, 2022) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated February 17, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated May 09, 2022 (received by the Office of Appellate Authority on May 18, 2022) against the response dated February 17, 2022 (received by the appellant on March 06, 2022). I have perused the application, the response of the respondent and the appeal and find that the matter can be decided based on the material available on record.
2. The appellants, in his appeal, has made 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) and *Mr. N. Saini vs. CPIO & Chief (RTI)* (Decision dated January 25, 2018). 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. **Queries in the application-** The appellant, vide his application dated March 22, 2022, sought the information regarding:

*“1. Date of PCFHL into DHFL. Date of delisting share of DHFL from NSE and BSE.
2. Name of the company who take over the DHFL.
3. Name of the Directors of Company which took all legal responsibilities of DHFL.
4. Address of the directors of Company which took all legal responsibilities of DHFL.
5. The certified copy of merger document of DHFL and the company (PCHFL) who has taken all legal responsibilities of DHFL.”*

4. The respondent, in response to the aforesaid queries, informed that the information sought is not available with SEBI. However, it was informed that Piramal Group’s resolution plan was approved by the National Company Law Tribunal (NCLT) under the Insolvency and Bankruptcy Code, 2016 (IBC). Further, DHFL was referred to NCLT by the RBI using special powers under Section 277 of IBC.
5. **Ground of appeal-** The appellant has filed the appeal on the ground that the response was provided without considering the merits of the application. Further, the appellant submitted that the decision of the respondent is not correct and legal. The appellant, in his appeal, *inter alia*, alleged that the records pertaining to DHFL has to be with SEBI. The appellant also alleged that the respondent denied to transfer the application under Section 6(3) of the RTI Act.
6. I have perused the queries and the response provided thereto. On consideration, I do not find any reason to disbelieve the observation that the information sought by the appellant, is not available with SEBI. 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.”* Further, in this context, I note that the Hon’ble CIC, in the matter of *Mrigesh Manubhai Thakkar vs. SEBI* (order dated December 28,

2016) observed that “*The Commission observes that the respondents can provide only that information which is existing and available with them and the RTI Act does not mandate it for the respondent authority to create information if it is not collected and collated in the normal course of their duties. The Commission, therefore, does not find any need to intervene in the matter. The appeal is disposed of.*” 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. Notwithstanding the above, I note that the respondent had informed regarding the Piramal Group’s resolution plan approved by NCLT under the IBC. The respondent had also informed that DHFL was referred to NCLT by RBI using special powers under Section 277 of IBC. In view of the same, I find that the respondent has adequately addressed the queries and I do not find any deficiency in the response.
8. Further, I note that the appellant, in his appeal, stated that the respondent denied to transfer the application under Section 6(3) of the RTI Act. At the outset, I note that the appellant, in his application, had not requested to transfer his application under Section 6(3) of the RTI Act. Further, on perusal of the response provided by the respondent, I note that the context of transfer of the application has not been discussed by the respondent. Hence, the submission of the appellant regarding the respondent having denied to transfer the application, has no merit and the same deserves to be dismissed.
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

Date: June 14, 2022

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