

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

Appeal No. 5500 of 2022

Kusum Gupta	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 22, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 18, 2022, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/22/00649) dated November 22, 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-** The appellant has filed the appeal on the ground that access to the requested information was refused. On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent with respect to query numbers 2, 3 and 4 of the application. In

view of the submissions made by the appellant in her appeal, I am only dealing with the said queries and the response provided thereto, in this order.

4. **Query number 2** –The appellant, vide her application dated September 22, 2022, sought two certified hard copies of information from records, pertaining to the SEBI Operational Guidelines on Securities Market Trainers (SMARTs) amended as on August 18, 2021. The appellant also requested to mention the applicability of the said operation guideline in a particular format.
5. The respondent, in response to the aforesaid query, informed that the information sought by the appellant is available on SEBI Investor Website. The respondent also provided the link for accessing the same. The appellant, in her appeal, *inter alia*, submitted that the respondent has to provide two certified copies of the said guidelines since the same has not been provided.
6. I have perused the query and the response provided thereto. On consideration, I find that the respondent has adequately addressed the query by providing the link for accessing the relevant guidelines pertaining to SMARTs. With respect to the submission of the appellant regarding certified copies, I note that certified copies can be obtained as per the procedure specified in SEBI Circular dated April 04, 2019. The said circular can be accessed at https://www.sebi.gov.in/legal/circulars/apr-2019/issue-of-certified-copies-of-orders-and-circulars_42633.html . In view of these observations, no further intervention is warranted at this stage.
7. **Query numbers 3 and 4-** The appellant, vide query number 3, sought two certified hard copies of information from your records, pertaining to the employee/s name with designation, address, contact number and email id in the hierarchy wise (From First Level to End Level) for escalating complaints to resolve pertaining to Investor Awareness Programs (IAPs) conduct by SMARTs. Vide query number 4, the appellant sought two certified hard copies of information pertaining to the details (name of employee/s, address, contact numbers, email ids etc.) of complaint handling higher authority against dissatisfaction with SEBI actions (pertaining to IAPs SMART matters of SEBI).
8. The respondent in response to the aforesaid queries, informed that the details of the employees in the Investor Awareness Division of SEBI are available on the SEBI website. The appellant also provided the link for accessing the same. The appellant, in her appeal, *inter alia*, submitted that the link has vast and scattered data. The appellant also requested for certified copies of the information sought at query numbers 3 and 4.

9. I have perused the queries and the response provided thereto. On consideration, I find that the answer to such queries can be found out by the appellant by accessing the information available on the SEBI website which is in the public domain. Further, if the relevant information is already available in the public domain, the same cannot be said to be information held by the public authority and consequently there is no obligation to provide such information to an applicant under the RTI Act. In view of these observations, I find that the respondent cannot be obliged to research information which is already available in the public domain and then provide the same to the appellant. Notwithstanding the same, I note that the respondent has adequately guided the appellant to refer to the SEBI website where the relevant details regarding SEBI employees posted in the Investor Awareness Division of SEBI, is disclosed by SEBI. Accordingly, I do not find any deficiency in the response.
10. 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: December 20, 2022

ANAND BAIWAR

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