

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

Appeal No. 5499 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/22/00648) 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. In view of the submissions made by the appellant in her appeal, I am dealing with the queries and the response provided thereto, in the following paragraphs.

4. **Query number 1-** The appellant, vide query number 1 of her application dated September 22, 2022, *inter alia*, sought five certified hard copies of information pertaining to the intimation letter (physical/ via email) issued by SEBI to Individual/ Organization SMARTs pertaining to the appointment of Mr. Manjesh Roy Stephen (General Manager, OIAE-IAD, SEBI) in place of Mr. Prasad Jagadale (General Manager, OIAE-IAD, SEBI), Mumbai.
5. The respondent, in response to the aforesaid query, informed that no such letter was issued. The appellant, in her appeal, submitted that the respondent has not provided five certified copies of the response of her RTI application query number 1.
6. I have perused the query and the response provided thereto. I note that the respondent has categorically informed that no such intimation letter was issued by SEBI. On consideration, I find that the respondent has adequately addressed the query by providing the information available with him. Accordingly, no further intervention of this form is warranted at this stage.
7. **Query numbers 2 and 4-** The appellant, vide query number 2, sought two certified copies of information from record pertaining to letter/notice/email/oral communication/video message sent related to penalty, ban, or de-empanelment imposed on either or both SMART entities, CIEL Learning Foundation, Mumbai (An Organization SMART) and Ambition Learning Solutions, Mumbai (An Organization SMART) during 01st Jan 2022 till the date of the application. The appellant, vide query number 4, sought two certified hard copies of information from record pertaining to all/any of the employee/s of the department of Investor Awareness Division - Office of Investor Assistance and Education (IAD-OIAE, SEBI).
8. The respondent, in response to the aforesaid queries, informed that the queries are not clear and specific and accordingly, the same cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. The appellant, in her appeal, submitted that the queries are very clear and self-understandable. The appellant also submitted that the decision of the respondent is malafide and not supported by reasoning.
9. I have perused the queries and the response provided thereto. I agree with the response of the respondent that the queries are not clear and specific. In this context, I note that in the matter of *Mr. T. V. Sundaresan vs. CPIO, Securities and Exchange Board of India* (Decision dated November 24, 2021), the Hon’ble CIC held: “*The framework of the RTI Act, 2005 expects that the information sought is specific and believed to be existing with the public authority in documented or material form as such; which can be shared with the appellant as per*

the provisions of the RTI Act. Answering to broad, multiple and general queries and presumptive documents that should have been generated as per the expectation of the appellant cannot be furnished under the provisions of the Act.” In view of these observations, I do not find any deficiency in the response.

10. **Query number 3-** The appellant, vide query number 3, sought two certified hard copies of information from record pertaining to the appointment letter/s or making In-charge to a particular role/s or issued an assignment letter/s pertaining to their job roles and responsibilities, duties, compliances/ non-compliances during work period 01 November 2020 till date of the application, for all the employees of the department of Investor Awareness Division - Office of Investor Assistance and Education (IAD-OIAE, SEBI), Bandra - BKC office), Mumbai.
11. The respondent, in response to the aforesaid query, informed that the requested information is exempt from disclosure under section 8(1)(a) of the RTI Act as the same pertains to the internal functioning of SEBI and is strategic in nature, disclosure of which may hamper the decision making by SEBI in its supervisory and regulatory role. The appellant, in her appeal, *inter alia*, alleged illegal refusal by the respondent and also submitted that the respondent did not quote which interest is likely to be hurt and how.
12. I have perused the query and the response provided thereto. On consideration, I agree with the response of the respondent that the requested information pertains to internal functioning of SEBI and is strategic in nature. I also note that providing the requested information regarding appointment of employees in particular role/s may entail disclosure of personal information including names etc of SEBI officials handling the matters. Further, I note that the decision-making process in SEBI is a collective affair in which officers of different levels contribute and hence information regarding the names of SEBI officials handling the matters relates to personal information, the disclosure of which has no relation to any public activity. As regards the non-disclosure of information relating to name of officer/s authorising certain action, I find that a similar issue was settled by the in *H. E. Rajashekarappa vs. State Public Information Officer and Ors.* (Order dated July 01, 2008), wherein the Hon’ble High Court of Karnataka had ruled that: “... *it cannot be said that section 2(f) of the Act (the RTI Act encompasses the personal information of the officials of the public authority. The intention of the legislation is to provide right to information to a citizen pertaining to public affairs of the public authority*”. Further, I note that the Hon’ble CIC, in the matter of *Prerit Misra vs. CPIO, SEBI* (order dated November 21, 2022) held that- “*It is pertinent to mention here that the appellant in a similar case which was dealt in File no. CIC/SEBIE/A/2019/660770 dated 10.08.2021 whereby he had sought information regarding the names of the officers who had blocked his email address, the Commission, while passing an order*

had held that such information is exempted u/s 8(1)(g) & 8(1)(j) of the RTI Act. The Commission after considering the submissions of the appellant finds no merit in his case, and also is in agreement with the order of the FAA and concludes that the information is exempt u/s 8(1)(g) & 8(1)(j) of the RTI Act, hence, no relief can be given.” In view of these observations, I find that the requested information is exempt from disclosure under sections 8(1)(a), 8(1)(g) and 8(1)(j) of the RTI Act.

13. 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**