

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

Appeal No. 5704 of 2023

Samir Sardana	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated Nil (Reg. No. SEBIH/R/P/23/00170 received by SEBI on May 02, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 22, 2023, responded to the application filed by the appellant. The appellant filed an appeal on June 04, 2023 by email. I note that as per the FAQs published on the website of CIC, a request under Section 6(1) of the RTI Act can be made in writing to the CPIO and it may also be filed electronically at <https://rtionline.gov.in>. I note that there is no mandate of accepting applications/ appeals by emails under the RTI Act. I note that the appellant was guided accordingly in the response dated May 22, 2023. Notwithstanding the same, this appeal is being taken up for consideration and disposal today.
2. In this appeal, the appellant has made a request for a personal hearing. I have carefully considered the application, the response and the appeal. I note that the appellant, in his appeal, has cited various orders on the issue of providing opportunity of hearing by the First Appellate Authority, which are distinguishable from the facts of the instant case. Further, the nature of the queries, the response of the CPIO and the grounds of appeal are self-explanatory and not complex. 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. Milind Hemant Kotak, Mumbai vs. Canara Bank* (Decision dated April 24, 2008) and *Mr R.K*

Jain vs. UPSC (Decision dated March 10, 2014). Therefore, I am of the opinion that the appeal can be decided on the basis of material available on record.

3. **Queries raised in the application-** The appellant, vide his application, sought the following information:

- *PIO to provide the copy of the complaint submitted by Samir Sardana w.r.t. complaint registration number SEBIE/UC16/0000015/1 and SEBIE/UC16/0000015/2*
- *PIO to provide a copy of the letters, documents and submissions made by the entity (w.r.t. the above stated complaint), on whom the complaint was made*
- *PIO to provide a copy of the notings and discussions made by the SEBI staff w.r.t. the above said cases, based on which the complaints were disposed by SEBI.*

4. The respondent, in response to the above three queries, provided certain documents at Annexure –I which include Action History of the complaints, complaint details, and copy of certain communications addressed to the appellant by NSE.

5. **Grounds 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 the first query regarding copy of complaint submitted by the appellant. Specifically, the appellant, in his appeal has submitted as under-

“This is the 1st Appeal u/s 19(1) of the RTI Act, 2005, w.r.t the Illegal rejection by non reply and non provision of 1 information requirement as under-

- *An RTI application was submitted in April, 2023*
- *PIO reply is dated 22.5.2023, vide ref. CPIO/GM/165 and 162/2023-24*
- *No reply has been received w.r.t 1 information parameter”*

Further, the grounds of appeal mentioned in the appeal, are as under-

- *Ground of Appeal No. 1- The SEBI HQ PIO has made no reply to the information requirements seeking a copy of the complaint submitted by the appellant.*
- *Ground of Appeal No. 2- The information is sought in public interest.*
- *Ground of Appeal No. 3- PIO is not equipped to execute a Rights based welfare enactment.*
- *Ground of Appeal No. 4- SEBI is not exempted from standards of oversight, transparency and accountability.*

6. I have perused the first query and the response provided thereto. I note that the appellant, vide first query, has sought the copy of his own document i.e. complaint submitted by him before SEBI. As noted above, the respondent has provided a response and also enclosed certain documents including Action History of

the complaints, complaint details, and copy of certain communications addressed to the appellant by NSE. The appellant, in his appeal, has specifically stated that no reply was provided by the respondent, which clearly is not correct. As is clear from the submissions and the grounds of appeal of the appellant reproduced above, the appellant, in no manner, has shown how the response of the respondent cannot be called adequate. In any case, the appellant is not entitled to seek the copy of his own document as a matter of right under the RTI Act. In this context, the Hon'ble Madras High Court in the matter of *PIO, Registrar, High Court, Madras vs. Central Information Commissioner* (Order dated September 17, 2014 passed in W.P. No. 26781 of 2013) held that *"we fail to understand as to how the second respondent is entitled to justify his claim for seeking the copies of his own complaints and appeals. It is needless to say that they are not the information available within the knowledge of the petitioner; on the other hand, admittedly, they are the documents of the second respondent himself, and therefore, if he does not have copies of the same, he has to blame himself and he cannot seek those details as a matter of right, thinking that the High Court will preserve his frivolous applications as treasures/valuable assets. Further, those documents cannot be brought under the definition "information" as defined under Section 2(f) of the RTI Act. Therefore, we reject the contention of the second respondent in this aspect."* The said order was referred to by the Hon'ble CIC in the matter of *K N Rajasekar vs. CPIO, Department of Official Language, Chennai* (Order dated August 31, 2019) while observing that *"The Commission further observes that the appellant vide point no. 3 of the RTI application is seeking a copy of his own documents submitted by him at the time of his appointment in the Hindi Teaching Scheme (HTS), Chennai Office, which he is not entitled to seek as a matter of right under the RTI Act..... In view of the above ratio, information sought cannot be provided to the appellant."* In view of these observations, I find that the information sought in the first query cannot be provided to the appellant.

7. Notwithstanding the above, I note that the respondent has provided the relevant documents pertaining to the said complaints. Accordingly, no further intervention is warranted at this stage.
8. 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: July 03, 2023

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