

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

Appeal No. 6162, 6163 and 6164 of 2024

Mukesh Kumar	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed 3 applications dated, August 10, 2024 (Reg. No. SEBIH/R/P/24/00186), August 12, 2024 (Reg. No. SEBIH/R/P/24/00189) and August 17, 2024 (Reg. No. SEBIH/R/P/24/00190), received by SEBI on August 14, 2024, August 19, 2024, and August 21, 2024, respectively under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 30, 2024, responded to the aforesaid applications filed by the appellant. The appellant filed 3 appeals, all dated September 12, 2024 (received by the Office of Appellate Authority on September 20, 2024).
2. In these appeals, the appellant has made a request for a personal hearing through teleconferencing. I have carefully considered the applications, the response and the appeal. I note that the nature of the requests, 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 (hereinafter referred to as “**FAA**”) under RTI Act, a full bench of Hon’ble Central Information Commission (hereinafter referred to as “**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. **Request in the application-** The appellant, in his applications dated August 10, 2024, August 12, 2024 and August 17, 2024, *inter alia*, sought information pertaining to Demat Accounts of certain individuals with SMC Global Securities Ltd. SAM Global Securities Ltd., Asit C Mehta Investment Intermediates Ltd. and Mansukh Stock Brokers Ltd.

Further the appellant vide request no. 11 of the application dated August 10, 2024, request no. 7 of the application dated August 12, 2024 and request no. 5 of the application dated August 17, 2024, *inter alia*, requested information regarding process for transfer of shares from one Demat Account to another and/or transfer of shares to another Demat Account of a different Depository Participant.

4. **Ground of appeal** - On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent.
5. **Reply of the Respondent** - The respondent, in response to the application, informed that the information sought is not maintained by SEBI in the normal course of regulation of securities market. Hence, the same is not available with SEBI. Further, the respondent advised the appellant to approach the concerned Depository Participant for obtaining the information by providing requisite documents.

Additionally, 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 details of the toll free helpline service numbers launched by SEBI to facilitate replies to various queries of the general public on matters relating to securities market.

6. I have perused the aforesaid requests and the response provided thereto. With respect to information related Demat Accounts of certain individuals, I note that the respondent has categorically stated that the requested information is not maintained by SEBI in the normal course of regulation of securities market. Hence, the same is not available with SEBI. I note that the respondent can only provide information that is available in the records. 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.” Accordingly, I do not find any deficiency in the response of the respondent. Notwithstanding the above, I note that the respondent has guided the appellant regarding lodging of grievance, if any, on the SCORES portal of SEBI.

7. With respect to appellant's request no. 11 of the application dated August 10, 2024, request no. 7 of the application dated August 12, 2024 and request no. 5 of the application dated August 17, 2024, regarding information pertaining to process of transfer of shares, I find that the response of the respondent does not appear to be adequate. In my view, the respondent was obliged to ascertain availability of the requested information with SEBI and whether the same may be provided to the appellant in accordance with the provisions of the RTI Act. Accordingly, it would be appropriate to remit the said requests for reconsideration.
8. Considering the above observations, I remit the applications to the respondent for *de novo* consideration of request no. 11 of the application dated August 10, 2024, request no. 7 of the application dated August 12, 2024 and request no. 5 of the application dated August 17, 2024 and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.
9. The Appeal is accordingly disposed of.

Place: Mumbai

Date: October 15, 2024

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