

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

Appeal No. 5940 of 2024

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

ORDER

1. The appellant had filed an application (Reg. No. SEBIH/R/P/24/00002) dated December 29, 2023 (received by SEBI on December 29, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated January 18, 2024, responded to the application filed by the appellant. The appellant filed an appeal dated February 29, 2024 (received by the Office of Appellate Authority on March 05, 2024).
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 nature of the request, 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 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. **Ground of appeal** - On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant, in his appeal, has raised dissatisfaction with respect to reply of the respondent pertaining to his requests nos. 1-7 of his application.
4. **Request nos. 1-4 and 6 of the application-** The appellant, vide requests nos. 1-4 and 6 of his application dated December 29, 2023, inter alia, sought the following information:

“(1) Provide three certified hard copies of the details about the list of Investor Awareness Programs (Online SEBI-LAPs) conducted during the period 01 January 2022 to 15th January 2022, by Ambition Learning Solutions (ALS), Mumbai (A Recognized Organization SMART) and Mr Amit Gupta (An individual Ex-SMART) in the below format...

(2) Provide three certified hard copies of all communications about Online LAP scheduling, Online LAP approval, Web meeting link sharing and claim/bill submitted for the Online LAPs Webinar scheduled & supervised by Ambition Learning Solutions (ALS), Mumbai (A Recognized Organization SMART, Registration No...) and training delivered by Mr Amit Gupta, Thane (Ex-SMART, Registration No...).

(3) Provide two certified hard copies of information about the signed empanelment letters (with full terms and conditions) by Ambition Learning Solutions, Mumbai (A Recognized Organization SMART, Registration No...) with SEBI from 01 October 2020 to 22 December 2023 (till date).

(4) Provide two certified hard copies of "information about the format of signed empanelment letters (with full terms and conditions) by A Recognized Organization SMART with SEBI from 01 April 2021 to 22 December 2023 (till date)."

“(6) Provide two certified hard copies of the letter/notice issued (either by email or letter) to A Recognized Organization and Individual SMART/s by SEBI Investor Awareness Division, Office of Investor Assistance and Education (SEBI IAD-01AE) from November 2020 to December 2023 about the non-compliance and irregularities while conducting Investor Awareness Programs.”

5. **Reply of the Respondent** - The respondent, in response to the requests nos. 1-4 & 6, informed that the information sought relates to the activities of third parties (including Ambition Learning Solution), which is available with SEBI in fiduciary capacity and includes commercial confidential information of other entities, the disclosure of which could hamper the competitive position of the entities. Hence the information sought is exempt u/s 8(1)(d) & 8(1) (e) of RTI Act.

I have perused the aforesaid requests and the response provided thereto. As regards, request nos.1, 2 and 6 of the application, I concur with the response of the respondent that the requested information is available to SEBI in fiduciary capacity. In the context of non-disclosure of information under Section 8(1)(e) of the RTI Act, 2005, the decision of the Hon'ble Supreme Court of India in *Institute of Chartered Accountants of India Vs. Shaunak H. Satya and Ors.*, in Civil Appeal NO. 7571 of 2011- dated 02/09/2011 is referred to, wherein it was held that: *"The use of the words "person" shows that*

the holder of the information in a fiduciary relationship need not only be a 'public authority' as the word 'person' is of much wider import than the word 'public authority'. Therefore the exemption under Section 8(1)(e) is available not only in regard to information that is held by a public authority (in this case the examining body) in a fiduciary capacity, but also to any information that is given or made available by a public authority to anyone else for being held in a fiduciary relationship. In other words, anything given and taken in confidence expecting confidentiality to be maintained will be information available to a person in fiduciary relationship". I, therefore, find that the requested information is exempt from disclosure under section 8(1)(e) of the RTI Act. Further, I am also of the view that disclosure of the requested information may cause unwarranted invasion of the privacy of the individuals involved. In view of the aforesaid information, I find that the said requests have been adequately addressed. I note that the appellant, in his appeal, has cited few orders, however, the same are distinguishable from the facts of the instant case. Accordingly, I do not find any deficiency in the response of the respondent

6. However, as regards, requests nos. 3 and 4 of the application, I find that the response provided by the respondent does not justify the denial of the requested information on the ground that the same is exempt from disclosure under 8(1)(d) and 8(1)(e) of the RTI Act. 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, on consideration, I find that the said requests have not been adequately addressed by the respondent and the same warrants reconsideration.

7. **Request no. 5 of the application** - The appellant, vide requests no. 5 of his application dated December 29, 2023, inter alia, sought the following information:

“(05) Provide two certified hard copies of information about the letter number SEBI/HO/OLAE/..../09037/1 issued on 27th April 2022 by SEBI Investor Awareness Division, Office of Investor Assistance and Education and the response received by SEBI about subject Clarification required on non-compliances and irregularities while conducting Investor Awareness Programs.”

8. **Reply of the Respondent** - In response to the aforesaid request, the respondent informed that the information sought has already been provided to the appellant vide letter dated January 02, 2023 in compliance to FAA order No. 5508 of 2022.
9. I have perused the aforesaid request and the response thereto. I note that the same request was sought by the appellant in his earlier RTI application, for which the respondent has already

provided the reply in compliance to FAA order No. 5508 of 2022. Hence, I do not find any deficiency in the response of the respondent.

10. **Request no. 7 of the application** - The appellant, vide requests no. 7 of his application dated December 29, 2023, *inter alia*, sought the following information:

“(7) Provide two certified hard copies of the list of employees with the name, designation, job role and responsibilities of SEBI Investor Awareness Division, Office of Investor Assistance and Education (SEBI IAD-OLAE) from November 2020 to December 2023. (Including contractual and on-payroll employees).”

11. **Reply of the Respondent** - In response to request no. 7 of the application, the respondent informed that the information sought relates to personal information, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individual and may also endanger the life or physical safety of the person(s). The same is, therefore, exempt in terms of Section 8(1) (g) and 8(1)(j) of the RTI Act, 2005.
12. I have perused the request and the response provided thereto. I find that the response provided by the respondent does not justify the denial of the requested information on the ground that the same is exempt from disclosure under Section 8(1) (g) and 8(1)(j) of the RTI Act. 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, on consideration, I find that the said requests have not been adequately addressed by the respondent and the same warrants reconsideration.
13. Considering the above observations, I remit the application to the respondent for *de novo* consideration of request nos. 3, 4 and 7 of the application (regarding certified copies of the SEBI emails) and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.
14. The Appeal is accordingly disposed of.

Place: Mumbai
Date: March 21, 2024

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