

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

Appeal No. 5676 of 2023

Amit Bhargava : Appellant

Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated May 10, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 17, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00096) dated May 19, 2023, against the said response dated May 17, 2023.
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-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. In view of the submissions made by the appellant in his 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, sought information regarding public meeting hours of each official of the SEBI offices.
5. The respondent, in response to the aforesaid query, provided the time during which officers/Staff members may opt to reach/leave office after attending office for a minimum of 8 hours in a day. The appellant, in his appeal, *inter alia*, submitted that the respondent has not provided query specific reply. The appellant also stated that the respondent has provided the working hours of SEBI without specifying the public meeting hours.
6. I have perused the query and the response provided thereto. On consideration, I find that the appellant has adequately addressed the query by providing the information available with him. I find that no further intervention is warranted at this stage.
7. **Query numbers 2, 3 and 6-** The appellant, vide query numbers 2, 3 and 6 sought the following information-
- “2. Is Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances, and Pensions, Government of India, Office Memorandum No. H-18011/36/2010-PG dated 9 August 2011 which requires that officers of the level of Deputy Secretary and above are required to meet the public without any prior appointment between 10 AM & 1 PM every Wednesday enforced in SEBI? If not, then what is the procedure adopted in SEBI for the public to meet its officials? Also provide a certified copy of the procedure, circular, rules, etc., issued by SEBI in this regard.*
- 3. Is Para 8.9.(i) of the Central Secretariat Manual of Office Procedure (Fifteenth Edition) which requires that each Communication received from the Member of Parliament, a member of the public, a recognised association or a public body will be acknowledged within 15 days, followed by a reply within the next 15 days of acknowledgement sent, enforced in SEBI? If not, then what is the procedure and timeframe adopted in SEBI to acknowledge communication received from the Member of Parliament, a member of the public, a recognised association or a public body, and what is the procedure and timeframe adopted in SEBI to provide its reply? Also provide a certified copy of the procedure, circular, rules, etc., issued by SEBI in this regard.*
- 6. Any other relevant information.*
8. The respondent, in response to the aforesaid queries, informed that the queries are in the nature of seeking clarification/opinion and accordingly, the same cannot be construed as seeking “Information”, as defined under section 2(f) of the RTI Act. The appellant, in his appeal, *inter alia*, submitted that no opinion has been sought in any of the three queries and that query numbers 2 and 3 are not mere clarifications. The appellant also submitted that the respondent is required to furnish query specific reply.

9. I have perused the queries and the response provided thereto. On consideration, I find that the query numbers 2 and 3 are in the nature of seeking clarification/confirmation from the respondent. In my opinion, the CPIO is not supposed to provide clarification; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein the Hon'ble CIC observed that "7. The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant are in the nature of seeking explanation/ opinion/ advice/ confirmation/ clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/opinions/advice can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him." In view of these observation, I do not find any deficiency in the response provided by the respondent.
10. Further, I note that query number 6 is vague and does not pin point the particular document/ information the appellant wants to obtain from the respondent. Accordingly, I find that no further intervention of this forum is warranted.
11. **Query numbers 4 and 5-** The appellant, vide query number 4, sought the complete breakup of public meetings that have taken place in the last months between a member of the public and every SEBI official holding certain post/rank. Vide query number 5, the appellant sought complete breakup of meetings that have taken place in the last 3 months between an individual or an entity and a SEBI official holding certain post / rank.
12. 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 his appeal, submitted that his queries are clear and specific.
13. I have perused the queries and the response provided thereto. On consideration, I agree with the response provided by the respondent that the queries are not specific. It is an established law that the information sought for in order to be disclosable under the RTI Act, must be clear, specific and available in the records of the public authority. 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 find that the queries cannot be construed as seeking “information”, as defined under section 2(f) of the RTI Act. Accordingly, I do not find any deficiency in the response.

14. **Query number 7-** The appellant, vide query number 7, sought file notings on every aspect of his RTI petition and on movement of his RTI petition. The respondent, in response to the said query, informed that the query is not applicable in view of the replies provided with respect to query numbers 1 to 6.
15. I have perused the aforesaid query and the response provided thereto. I find that the said query has not been adequately addressed and the same warrants reconsideration.
16. Further, the appellant, in his appeal, requested to initiate penal action against the respondent under Section 20 of the RTI Act. In this regard, I note that as per Section 20(1) and 20(2) of the RTI Act, the Central Information Commission or the State Information Commission has the powers to impose a penalty or recommend disciplinary action against the Central Public Information Officer or the State Public Information Officer, while deciding on a complaint or a second appeal. Hence, I find that this request is beyond the purview of the First Appellate Authority. In view of these observations, I find that the said request of the appellant does not warrant consideration at this stage.
17. Considering the above observations, I remit the application to the respondent for *de novo* consideration of query number 7 and for sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.
18. The Appeal is accordingly disposed of.

Place: Mumbai

Date: June 14, 2023

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