

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

Appeal No. 4993 of 2022

Swastik Upadhyay	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated March 24, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated April 11, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated April 18, 2022.
2. The appellant, in his appeal, has made 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) and *Mr. N. Saini vs. CPIO & Chief (RTI)* (Decision dated January 25, 2018). In view of the above observations, I have carefully considered the application, the response provided by the respondent 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. **Queries in the application** –The appellant, vide his application dated March 24, 2022, sought the following information:

Let us assume that for selling 1 lot of Nifty margin needed is say 1.5lac. Please provide answers for the following questions:- 1.Do I need to keep that 1.5 lac as hard cash in his account to fulfil my margin requirement or I can

pledge some amount say Rs80000 as Mutual Fund pledge(80,000 is considered after haircut) and rest as hard cash?

4. The respondent, in response to the aforesaid query, informed that the query is 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, 2005.
5. **Ground of appeal-** The appellant has filed the appeal on the ground that he is not satisfied with the response provided by the respondent. The appellant, in his appeal, submitted that he believed his query to be a direct question and that there must be specific rules for fulfilling the margin requirements.
6. I have perused the query and the response provided thereto. On consideration, I find that the query of the appellant is in the nature of seeking clarification/opinion from the respondent. It is understood that the respondent is not supposed to create information; or to interpret information; or to furnish clarification to the appellant under the ambit of the RTI Act. I find that the said query cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or opinion under the RTI Act. In this context, reference is made to the matter of *Vineet Pandey vs. CPIO, United India Insurance Company Limited* (Judgment dated January 21, 2021), wherein similar observations were made by the Hon’ble CIC. Further, in the matter of *Shri Shantaram Walavalkar vs. CPIO, SEBI* (Decision dated January 17, 2013), I note that the Hon’ble CIC held: “... we would also like to observe that, under the Right to Information (RTI) Act, the citizen has the responsibility to specify the exact information he wants; he is not supposed to seek any opinion or comments or clarifications or interpretations from the CPIO...”. In view of these observations, I do not find any deficiency in the response.
7. 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: May 11, 2022

S V MURALI DHAR RAO
APPELLATE AUTHORITY UNDER THE RTI ACT
SECURITIES AND EXCHANGE BOARD OF INDIA