

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

Appeal No. 5804 of 2023

Shantanu Rai	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 09, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (hereinafter referred to as “**RTI Act**”). The respondent, by a letter dated September 21, 2023 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00201) dated September 21, 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 (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* (Decision dated October 10, 2011) 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 decision of the Hon’ble CIC in the matter 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. **Query in the application** - The appellant, vide his application dated September 09, 2023 sought following information:

“In the earlier RTI responses SEBI has informed that it has developed a parameter based surveillance mechanism to detect suspicious activity in the financial markets. Several media stories are published which are at times not properly verified that have an effect on the financial markets. Information may be provided that whether the parameter based surveillance mechanism is properly equipped to detect suspicious activity in the financial markets caused by such unverified media stories?”

4. **Reply of the Respondent** - The respondent in response to the query informed that your query is not specific and is the nature of seeking clarification. Accordingly, the same cannot be construed as “information”, as defined u/s 2(f) of the RTI Act, 2005.
5. **Ground of appeal-** The appellant has filed the appeal on the ground that information provided was incomplete, misleading or false information. Further, the appellant has, inter alia, submitted that the citation of section 2(f) of RTI Act, 2005 is incorrect.
6. I have perused the query and the response provided thereto. On consideration, I find that the queries are in the nature of seeking clarification/explanation/ opinion/ confirmation from the respondent regarding SEBI's surveillance mechanism. The queries also appear to be situational queries. In my opinion, the CPIO is not supposed to provide clarification/opinion; 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/ advices 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 the context of seeking replies to situational queries, I note that the Hon'ble CIC, in the matter of *Mr. Mahendra Kumar Mehta vs. CPIO, SEBI* (Judgment dated April 12, 2021), held that: “9. This Commission observes that the appellant herein attempts to seek legal opinion/clarification from the CPIO to his situational queries with regard to 'the circular, rules, regulations, notification etc. regarding trading member for taking stock in pledge, collateral, or security for providing margin to do trade in reference to derivatives segment, charging of interest and GST, precaution to be taken by trading member for protection of constituents individual/HUF etc.'. Therefore, the CPIO is not supposed to interpret information; or to furnish replies to situational queries; or to furnish clarifications.

Hence, such queries seeking legal opinion/clarification from the CPIO are not covered within the definition of 'information' u/Section 2(f) of the RTI Act, 2005. Accordingly, this Commission upholds the contention put forth by the CPIO." In view of these observations, I find that the said 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.

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: October 11, 2023

ANAND BAIWAR

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