

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

Appeal No. 5504 of 2022

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

ORDER

1. The appellant had filed an application dated September 22, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 18, 2022, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/22/00653) dated November 22, 2022.
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-** The appellant has filed the appeal on the ground that access to the requested information was refused. In view of the submissions made by the appellant in her appeal, I am dealing with the queries and the response provided thereto, in the following paragraphs.

4. **Query numbers 1, 2 and 3-** The appellant, vide query number 1, sought two certified hard copies of information pertaining to total numbers (in counts) of online investor awareness programs (IAPs) WEBINARs conducted/delivered under the aegis of SEBI-IPEF) by both Individual Category and Organization Category SEBI empanelled/recognized Securities Market Trainers (SMARTs) during the period 24th November 2020 to 31st March 2022. Vide query number 2, the appellant sought three certified hard copies of information pertaining to total numbers (in counts/ figures) of offline investor awareness programs (IAPs) conducted/delivered under the aegis of SEBI-IPEF) by both Individual Category and Organization Category SEBI empanelled Securities Market Trainers (SMARTs) during the period 24th November 2020 to 31st March 2022. The appellant, vide query number 3, sought three certified hard copies of information pertaining to total numbers (in counts/ figures) of offline investor awareness programs (IAPs) conducted/delivered under the aegis of SEBI-IPEF) by both Individual Category and Organization Category SEBI empanelled Securities Market Trainers (SMARTs) during the period 01st April 2022 to 19th September 2022 (or till date of the RTI reply). The appellant also provided specific formats for providing the requested information.
5. The respondent, in response to query numbers 1 and 2, provided the approximate Investor Awareness Programs (online and offline) conducted by SMARTs (individual and organization), during the period November 24, 2020 till August 2022. In response to query number 3, the respondent informed the approximate Investor Awareness programs (online and offline) conducted by SMARTs during the period April 1, 2022 to September 19, 2022. The appellant, in her appeal, submitted that the information provided was different / incomplete and that the respondent has to provide the information in the specific tabular format provided by the appellant.
6. I have perused the queries and the response provided by the respondent. On consideration, I find that the respondent has adequately addressed the queries by providing the information in the form available with the respondent. Accordingly, I did not find any deficiency in the response.
7. **Query numbers 4 and 5-** The appellant, vide query number 4, sought information pertaining to the details of Indian Penal Code (IPC) section applicable, if SEBI's information is false. Vide query number 5, the appellant sought information pertaining to the details of Indian Penal Code (IPC) section applicable, if there is delay/denial in providing information with malicious intention.

8. The respondent, in response to the aforesaid queries, informed that the information sought is not available with SEBI. The appellant, in her appeal, *inter alia*, submitted that the respondent is not providing the requested information.
9. I have perused the queries and the response provided thereto. I note that the appellant has informed regarding non-availability of the requested information. On consideration, I find that the queries of the appellant are more in the nature of seeking clarification/opinion from the respondent. I note 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. Accordingly, no further intervention is warranted at this stage.
10. 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: December 21, 2022

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