

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

Appeal No. 5602 of 2023

Sanjay Kumar Patel	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated January 02, 2023 (received by SEBI on January 11, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated February 03, 2023, responded to the application filed by the appellant. The appellant filed an appeal dated February 13, 2023, against the response dated February 03, 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 numbers 1 and 2-** The appellant, vide query numbers 1 and 2, *inter alia*, sought the following information-

“1. In which year Sterlite Industries India Limited was merged with Vedanta Limited? At that time what was the Market valuation, Total Share Value, Authorized Capital, Paid Up Capital of Sterlite Industries India Limited? Provide details of the current status after the merger.

2. Prior to the merger of Sterlite Industries India Limited with Vedanta Limited, what was the shareholding of Twinstar Holdings Pvt. Limited, Volcan Investments Limited, Vedanta Netherlands Investments, Welter Trading Limited, Vedanta Holdings Mauritius and Public Entity? please provide details of the present shareholding after merger with Vedanta Limited.”

5. The appellant, in response to the aforesaid queries, informed that the merger of Sterlite Industries Ltd. with Vedanta Ltd. was approved by the competent authority before the Companies Act, 2013 came into force. The respondent also informed that the requested information is not available since the observations with respect to the Scheme of Arrangements, were not required to be given by SEBI. The appellant, in his appeal, *inter alia*, referred to various sections of the RTI Act and submitted that the CPIO cannot refuse to provide information related to third party.
6. I have perused the queries and the response provided by the respondent. I note that the respondent has clearly informed regarding non-availability of the requested information. Further, the respondent informed regarding the non-requirement of providing observations with respect to Scheme of Arrangements that were approved before the Companies Act, 2013 came into force. In my view, the respondent has adequately addressed the queries by providing the information available with him. Accordingly, I do not find any deficiency in the response.
7. **Query numbers 3 and 4-** The appellant, vide query numbers 3 and 4, *inter alia*, sought the following information:

“3. Before merging Sterlite Industries with Vedanta Limited, whether permission was obtained from Income Tax Department, ROC, Central Government Ministry of Mines, Stock Exchange, Regional Regulatory Authority, Official Liquidator, CCI? Provide complete details along with the proposal made by the Board of Directors, draft merger proposal, application made in the High Court and the copy of the evaluation report confirming that the provisions of section 230-233 of the Companies Act were fully complied with.

4. Prior to the acquisition of 13.78 crore shares of Vedanta Limited by Twin Star Holdings and Vedanta Netherlands Investments through the open market in the last year 2021, permission was taken from Income Tax Department, ROC, Central Government, Stock Exchange, Regional Regulatory Authority, Official Liquidator, CCI. Provide complete details including copy of the resolution of the Board meeting proposed by the Board of Directors, copy of transfer deed, copy of the evaluation report confirming that Section 187 and other provisions of the Companies Act, 2013 have been complied with.”

8. The respondent, in response to the aforesaid queries, informed that the requested information is not available with SEBI.
9. I have perused queries and the response provided thereto. On consideration, I do not find any reason to disbelieve the response provided by the respondent. In this regard, I note that the Hon'ble Supreme Court of India, in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011) held that “*The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.*” In view of these observations, I do not find any deficiency in the response.
10. 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.

11. 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: March 09, 2023

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