

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

Appeal No. 5616 of 2023

Nirbhay Nath Das	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated February 04, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated March 03, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00052) dated March 06, 2023. I have carefully considered the application, the response and the appeal and find that the matter can be decided based on the material available on record.
2. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false information. The appellant, in his appeal, *inter alia*, submitted that most of his queries were unanswered. In view of the submissions made by the appellant, I am dealing with the queries and the response provided thereto, in the following paragraphs.
3. **Query number 1-** The appellant, vide query number 1 of his application, sought the information related to the measures taken by SEBI against his complaint number: SEBIP/MP20/00....1/1, till date.
4. The respondent, in response to the aforesaid query, provided a copy of the complete action history sheet pertaining to SCORES complaint bearing registration number SEBIP/MP20/00.....1/1.
5. I have perused the query and the response provided thereto. I note that the respondent has already provided copy of the Action History of the complaint filed by the appellant. I note that the Action History of the complaint reveals the action taken and the date-wise progress of the complaint. On consideration, I find that the respondent has adequately addressed the query by providing the information available with him. Therefore, I find no deficiency in the respondent’s response.
6. **Query numbers 2 and 5-** The appellant, vide query numbers 2 and 5, sought the following information-

“2. How many complaints are filed against Trade India Research in SEBI.

5. How many companies under the name of Neha Gupta (Trade India Research) are registered in SEBI.”

7. The respondent, in response to query number 2, informed that 539 complaints have been filed against Trade India Research in SCORES portal from the date of commencement till February 13, 2023. In response to query number 5, the respondent informed that Trade India Research (Proprietor Ms. Neha Gupta), is registered with SEBI as Investment Adviser with effect from June 17, 2015 and is a Sole Proprietorship Firm. The respondent also provided the Registrations Number as per available record.
8. I have perused the queries and the response provided thereto. On consideration, I find that the respondent has adequately addressed the queries by providing the information available with him as per the available records. Accordingly, I do not find any deficiency in the response.

9. **Query numbers 3 and 4-** The appellant, vide query numbers 3 and 4, sought the following information:

“3. How many investors have invested in Trade India Research till now.

4. How many employees working for Trade India Research are registered in SEBI.”

10. The respondent, in response to the aforesaid queries, informed that the information sought by the appellant is not available with SEBI since the same is not maintained by SEBI in the normal course of regulation of securities market.
11. I have perused the queries and the response provided thereto. On consideration, I do not find any reason to disbelieve the response of the respondent that the requested information is not maintained by SEBI in the normal course of regulation of securities market. In this context, I note that the Hon'ble CIC, in the matter of *Lakshminarayanan R vs. SEBI* (order dated February 09, 2023) observed that *“Keeping in view the facts of the case, the Commission observed that the information sought by the appellant regarding Central Depository Services Ltd. was not maintained by the respondent authority in the normal course of regulation of securities market. It is an established law that the information sought for in order to be disclosable under the RTI Act, 2005 must be existent and available in the records..... In the instant case, the desired information was not available in the records of the respondent authority. The CPIO in his reply and written submissions has also sufficiently explained the reason for denial of information in the present case. Therefore, the denial is justified and upheld accordingly.”* In view of these observations, I do not find any deficiency in the response.

12. **Query number 6-** The appellant, vide query number 6, sought the following information-

“6. How many and what kind of bank accounts of Neha Gupta is registered in SEBI.”

13. The respondent, in response to the aforesaid query, informed that the information sought is exempt from disclosure under section 8(1)(e) of the RTI Act as the same is available to SEBI in fiduciary capacity and there is no longer public interest involved in disclosure of the said information.
14. I have perused the query and the response provided thereto. On consideration, I agree with the response of the respondent that the requested information is held by SEBI in a fiduciary capacity. I note that in Writ Petition (Civil) Nos. 8396/2009, 16907/2006, 4788/2008, 9914/2009, 6085/2008, 7304/2007, 7930/2009 and 3607 of 2007, the Hon’ble High Court of Delhi, in its order dated November 30, 2009, held that the ‘person’ referred to in section 8(1) (e) of the RTI Act will include a public authority. It also held that: *“In a fiduciary relationship, the principal emphasis is on trust, and reliance, the fiduciary’s superior power and corresponding dependence of the beneficiary on the fiduciary. It requires a dominant position, integrity and responsibility of the fiduciary to act in good faith and for the benefit of and to protect the beneficiary and not oneself”*. Further, the Hon’ble CIC, in the matter of *Mr. Ashok Kumar Rajak vs. CPIO, SEBI*, (order dated December 21, 2021), held that *“Further the details such as investigation report, file noting, directions and various communication involves with the third party information which is received from other agencies is being held by them in fiduciary capacity hence the same is barred from disclosure under section 8(1)(e) & (j) of the RTI Act, 2005.”* I find that SEBI, being the regulatory authority for the securities market, gets various references/documents from market participants and the information contained therein are received in ‘fiduciary relationship’. I, therefore, find that such information received in ‘fiduciary relationship’ from market participants etc. is exempt from disclosure under Section 8(1)(e) of the RTI Act. Accordingly, I do not find any deficiency in the response.

15. **Query number 7-** The appellant, vide query number 7, sought the following information-

“7. What is the total amount looted by Neha Gupta under the name of SEBI till date.”

16. The respondent, in response to the aforesaid query, informed that the query is vague and not specific and accordingly, the same cannot be construed as seeking “information” as defined under section 2(f) of the RTI Act.
17. I have perused the query and the response provided thereto. On consideration I find that the same is vague and not specific. In this context, I note that in the matter of *Shri S. C. Sharma vs. CPIO, SEBI*

(Decision dated August 30, 2012), the Hon'ble CIC held: "*Since the Appellant had not clearly stated what exact information he wanted, the CPIO could not have provided any specific information to him.*" In view of these observations, I find that the query cannot be construed as seeking "information", as defined under section 2(f) of the RTI Act. Accordingly, no further intervention is warranted at this stage.

18. 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: April 05, 2023

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