

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

Appeal No. 5881 of 2024

Rajiv Ram Nagar	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated November 20, 2023 (received by SEBI on November 20, 2023) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated December 14, 2023, responded to the application filed by the appellant. The appellant filed an appeal dated December 21, 2023 (received by the Office of Appellate Authority on December 27, 2023). I have perused the application, the response of the respondent and the appeal and find that the matter can be decided based on the material available on record.
2. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant, in his appeal, *inter alia*, submitted that as he is a shareholder of the complainant company, the information sought should be provided to him. Further, the appellant, in his appeal, submitted that the disclosure of the information sought has no bearing on the market operations.
3. **Request 1 - 7 of the application-** The appellant, vide request nos. 1-7 of his application dated November 20, 2023 sought the following information:

“Information sought about the Complaint dated 11.08.2023 filed by Khaitan & Company on behalf of Ganesh Benzoplast Limited regarding the fraudulent sale of the shares.

- 1. Please provide a copy of the complaint dated 11.08.2023 filed by Khaitan and Company on behalf of Ganesh Benzoplast Limited.*
- 2. Please provide the present status of the complaint dated 11.08.2023.*
- 3. The status of the investigations carried out in the matter of complaint dated 11.08.2023 till date.*
- 4. Outcome of the investigation carried out in the complaint dated 11.08.2023.*
- 5. Please provide the investigation report regarding Inquiry/investigation done in the said complaint.*
- 6. Please provide a copy of the Show Cause Notice if issued to the said Morgan Securities & Credits Pvt Ltd, Doogar & Associates, Doogar Associates Securities Limited.*

7. Please provide a copy of reply if any received from Morgan Securities & Credits Pvt Ltd, Doogar & Associates, Doogar Associates Securities Limited.”

4. **Reply of the Respondent** - The respondent, in response to aforesaid request nos. 1 to 7 of the application, informed the appellant that the complaint sought in the application neither pertains to him nor has the complaint been lodged by him. The respondent informed that the complaint has been provided by third party to the regulator, which is in the nature of regulatory inputs/market intelligence and is confidential in nature and received in fiduciary capacity. Hence, the disclosure of such confidential information would affect and compromise the interest of the parties and the securities market. Accordingly, the disclosure of such information is exempt u/s 8(1)(d) & 8(1)(e) of RTI Act, 2005.
5. I have perused the aforesaid request and the response provided thereto. I note that the appellant in his application has sought information pertaining to complaint dated 11.08.2023 filed by Khaitan & Company on behalf of Ganesh Benzoplast Limited. I note that the respondent has clearly stated that the said complaint does not pertain to the appellant and the same has been filed by third party to the regulator, which is in the nature of regulatory inputs/market intelligence, hence, is confidential in nature and received in fiduciary capacity. Further, the respondent, informed the appellant, that disclosure of such confidential information would affect and compromise the interest of the parties and the securities market. Hence, the disclosure of such information is exempt u/s 8(1)(d) & 8(1)(e) of RTI Act, 2005. However, I note that the appellant, in his appeal, has *inter alia*, submitted that he is not a third party and is a shareholder of the complainant company, hence, the information sought should be provided to him. Further, the appellant, in his appeal, submitted that the disclosure of the information sought has no bearing on the market operations. In this regard, I concur with the response the respondent, as SEBI receives alerts and references from various sources and these may or may not result in further action by SEBI such as examination or investigation. Such examination or investigation may or may not establish the suspected violations or lead to enforcement actions. Maintaining confidentiality of examination/ investigation is important since reports of the same may result in unwarranted speculation or concern in the market or may affect evidence collection during the examination/investigation or may result in unnecessary harm to third parties. Further, I note that information regarding any regulatory action taken by SEBI/penalty imposed against entities, would be available on the website of SEBI. The rationale for neither confirming nor denying existence of any examination/investigation was relied upon by SEBI before the Hon'ble Central Information Commission (hereinafter referred to as “CIC”) in *Arun Damodar Sawant vs CPIO, SEBI* (order dated

September 26, 2018 in Appeal No. CIC/SEBIH/A/2017/ 137139/BJ). The Hon'ble CIC, in the said matter, accepted the submissions and refused to intervene in the response of the CPIO. Similar observations were also made by the Hon'ble CIC, in the matter of *Anju Sharma vs. CPIO, SEBI* (order dated September 28, 2020). In view of these observations, I find that the aforesaid requests of the appellant have been adequately addressed and no further interference of this forum is warranted at this stage.

6. **Request no. 8 of the application-** The appellant, vide request no. 8 of his application dated November 20, 2023 sought the following information:

"8. Please provide the details of the person/ department who is assigned the said complaint."

7. **Reply of the Respondent** - In response to request no. 8 of the application, the respondent informed that the complaint handling mechanism at SEBI is a collective affair, in which officers of different level contribute. Hence, handling the complaints is internal to the functioning of the SEBI and the said information relates to personal information the disclosure of which has no relation to any public activity or interest. Accordingly, the same is exempt u/s 8(1)(g) & 8(1)(j) of the RTI Act.
8. I have perused the aforesaid request and the response provided thereto. On consideration, w.r.t. request no. 8 of the application, I find that the information about SEBI officials relates to personal information, the disclosure of which has no relationships to any public activity or interest and may cause unwarranted invasion into the privacy of the individual and may also endanger the life or physical safety to the person. I note that a similar issue was settled in the matter of *H. E. Rajashekarappa vs. State Public Information Officer and Ors.* (Order dated July 01, 2008), wherein the Hon'ble High Court of Karnataka had ruled that: *"... it cannot be said that section 2(f) of the Act (the RTI Act encompasses the personal information of the officials of the public authority. The intention of the legislation is to provide right to information to a citizen pertaining to public affairs of the public authority"*. Further, I note that the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**"), in the matter of *Prerit Misra vs. CPIO, SEBI* (order dated November 21, 2022) held that- *"It is pertinent to mention here that the appellant in a similar case which was dealt in File no. CIC/SEBIE/A/2019/660770 dated 10.08.2021 whereby he had sought information regarding the names of the officers who had blocked his email address, the Commission, while passing an order had held that such information is exempted u/s 8(1)(g) & 8(1)(j) of the RTI Act. The Commission after considering the submissions of the appellant finds no merit in his case, and also is in agreement with the order of the FAA and concludes that the information is exempt u/s 8(1)(g) & 8(1)(j) of the RTI Act, hence, no relief can be*

given.” In view of these observations, I find that the requested information is exempt from disclosure under sections 8(1)(g) and 8(1)(j) of the RTI Act.

9. 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

B RAJENDRAN

Date: January 18, 2024

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