

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

Appeal No. 5718 of 2023

Parveen Kumar Aggarwal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 19, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated June 14, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00133) dated June 14, 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. **Queries in the application** –The appellant, vide his application dated May 19, 2023, sought the following information:

“Please provide the copy of report/recommendations/suggestions of Secondary Market Advisory Committee (SMAC) based on which Securities and Exchange Board of India (SEBI) decided to review the mechanism of dividend adjustment for stock options. Please provide the representations/suggestions received by Securities and Exchange Board of India (SEBI) from various stakeholders requesting to review the dividend adjustment framework for stock options. Please provide the suggestions which were examined by Securities and Exchange Board of India and placed before the Secondary Market Advisory Committee (SMAC) for deliberations. Please provide the report/recommendations/suggestions on the basis of which SEBI reviewed the mechanism of adjustment in strike price in case of dividends declared at and above 10% of the market value of the underlying stock and reduced the percentage to 2% in the same.”

3. The respondent, in response to the application, informed that the information sought is exempt from disclosure under section 8(1)(a), 8(1)(d) and 8(1)(e) of RTI Act, as the same is strategic in nature and pertains to the policy making decisions of SEBI. The respondent also informed that disclosure of the information would result in revealing the mind of the regulator and hence, hamper the decision making

by SEBI in its supervisory and regulatory role. Further, disclosure of such strategic and confidential information would also affect and compromise the interest of securities market in specific, and may impact the economic interests of the country. The respondent also mentioned that the information sought is available to SEBI in fiduciary relationship and includes commercial confidential information, the disclosure of which could harm the competitive position of the entities.

4. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. The appellant, in his appeal, *inter alia*, submitted that the grounds of refusal are untenable. The appellant also stated that the information is not declared confidential by any law and that no reason has been given as to how the disclosure of information can harm the competitive position of entities.
5. I have perused the application and the response provided thereto. I note that the appellant has sought information regarding related to SEBI's decision to review the mechanism of dividend adjustment for stock options. SEBI being the regulator of securities market issues various circulars/ guidelines etc. for regulating activities in the securities market. SEBI also revisits the prevailing procedures/ systems, *inter alia*, for improving the same or for dealing with emergent situations. In this process, SEBI may seek comments from the public and experts on issues under its consideration. I note that any information relating to the formulation of such regulatory policy may also entail an evaluation of various views submitted by concerned/related market participants which were intended to be confidential on account of the commercial/trade related aspect involved. Disclosure of public comments received by SEBI and documents relating to the deliberations in the process, may reveal issues which are under consideration of SEBI or actions contemplated by SEBI in future, which are strategic in nature and thus would have an impact on the decision making of SEBI in particular. I note that any breach of confidentiality through disclosure of such information, available in a fiduciary capacity with SEBI (*reliance placed on the Delhi High Court's Order dated November 30, 2009 in Writ Petition (Civil) Nos. 8396/2009, 16907/2006, 4788/2008, 9914/2009, 6085/2008, 7304/2007, 7930/2009 and 3607 of 2007*) and which may be contained in the aforementioned documents, may affect the regulator's ability to obtain necessary inputs, etc. from such entities in future. Further, the Hon'ble CIC in matter of *Shri Ravi Ramaiya vs. SEBI (Decision dated September 11, 2015)* accepted the contention of SEBI that information received in confidence as part of regulatory process, which is strategic in nature and held in fiduciary capacity is exempt from disclosure under RTI Act, as the same may compromise the regulatory functions of SEBI. In view of these observations, I agree with the response of the respondent that the requested information is exempt from

disclosure under section 8(1)(a), 8(1)(d) and 8(1)(e) of the RTI Act. I also find that representations/ suggestions received by SEBI may contain personal information related to third parties, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individual. Hence, the same is also exempt from disclosure under Section 8(1)(j) of the RTI Act. Accordingly, no further intervention is warranted at this stage.

6. 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: July 14, 2023

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