

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

Appeal No. 6151 and 6152 of 2024

Ashok Kumar Upadhyay	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated August 12 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated September 10, 2024 responded to the application filed by the appellant. The appellant filed two identical appeals (Reg.No.SEBIH/A/E/24/00211) and (Reg.No.SEBIH/A/E/24/00212), both dated September 10, 2024 with respect to the aforesaid RTI application. I have carefully considered the application, the response and the appeals and find that the matter can be decided based on the material available on record.
2. **Ground of appeal** - The respondent filed the appeals on the ground that he was refused access to information requested.
3. **Request Nos. 1, 2, 3, 5, 6 and 7 of the application** - The appellant, vide his application dated August 12, 2024 sought the following information:

“1.Please provide details on whether SEBI Chairperson Madhabi Puri Buch made complete disclosures to the government regarding her and her husbands investments in global funds, particularly in relation to any potential conflicts of interest with regulated entities such as Adani Group.

2 Please confirm whether Madhabi Puri Buch recused herself from any investigations or decisions involving Adani Group companies, considering her or her husbands investments in Adani related global entities.

3 Please outline the mechanisms SEBI has in place to verify that its Chairperson and other officials comply with disclosure and recusal norms.”

“5 Please describe the oversight mechanisms that SEBI employs to ensure adherence to its disclosure and recusal policies.

6 Please confirm whether Madhabi Puri Buch disclosed her investment in a global fund made in 2015 prior to her appointment as a whole time member of SEBI, and provide details on how this disclosure was made.

7 Please explain how SEBI's regulatory framework addresses potential conflicts of interest and ensures transparency in decision making processes, especially in comparison to past practices.”

4. **Reply of the Respondent** - The respondent, in response to request nos. 1, 2, 3, 5, 6 and 7 of the application, informed that the information sought are in the nature of seeking clarification/opinion. Accordingly, the same cannot be construed as “Information”, as defined u/s 2(f) of the RTI Act, 2005. However, with respect to request no. 3, 5 and 7 of the application, the respondent informed that the “Code on Conflict of Interests for Members of Board” adopted by the Board is available on SEBI website. The respondent provided the relevant path to access the same.
5. I have perused the requests and the response provided thereto. On consideration, I concur with the response of the respondent that the said requests are in the nature of seeking clarification/opinion from the respondent. I find that the said requests cannot be construed as seeking ‘information’ as defined under section 2(f) of the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon’ble Central Information Commission (hereinafter referred to as “**CIC**”) observed that “7. *The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant are in the nature of seeking explanation/ opinion/ advice/ confirmation/ clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/ opinions/ advices can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him*” Accordingly, I do not find any deficiency in the response. Notwithstanding the above, with respect to request nos. 3, 5 and 7 of the application, I note that the respondent has informed the appellant to refer to the “Code on Conflict of Interests for Members of Board” adopted by the Board, which is available on SEBI website. I note that the respondent has also provided the relevant path to access the same on SEBI website. However, I note that there is a typographical error in the reply of the respondent with respect to SEBI website. The correct address of SEBI website is www.sebi.gov.in. The respondent may be guided by the same. Accordingly, no further intervention of this forum is warranted.
6. **Request No. 4 of the application** - The appellant, vide his request no. 4 of application dated August 12, 2024 sought the following information:

“4 Please provide information on documented instances where previous SEBI Chairpersons or senior officials have recused themselves from decisions or investigations due to potential conflicts of interest.”

7. **Reply of the Respondent** – The respondent, in response to request no. 4, informed that the information sought does not pertain to the appellant and relates to personal information, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individuals and may also endanger the life or physical safety of the person(s). The same is therefore exempt in terms of sections 8(1)(g) and 8(1)(j) of the RTI Act, 2005.

Further, the respondent informed that information sought on documented instances where previous SEBI Chairpersons or senior officials have recused themselves in dealing with the matters/files is not readily available and collating the same will lead to disproportionately diverting the resources of the public authority in terms of section 7(9) of the RTI Act, 2005. Additionally, the respondent informed that the query is vague for determination of "senior" officials. Accordingly, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act, 2005.

The respondent also informed that in all instances of conflict of interest where recusal has been made, it is due to personal interest in the matter. Disclosure of documented instances pertains to personal information of fiduciary nature, which relates to and supplied by third party treating them as confidential.

8. I have perused the aforesaid request and the response provided thereto. I note that the requested information has been denied by the respondent, *inter alia*, under section 7(9) of the RTI Act. On consideration, I note that the requested information is not readily available with the respondent in the manner as sought by the appellant and that the respondent would be required to collate the information. Hence, I concur with the response of the respondent that such collation would disproportionately divert the resources of SEBI and would thereby defeat 'the practical regime of right to information' as envisaged in the preamble of the RTI Act. In this context, I note that the Hon'ble CIC, in the matter of *Mr. Deepak Girdhar vs. CPIO, SEBI* (Order dated March 30, 2021), observed that "6. *The Commission, after hearing the submissions of the respondent and after perusal of records, observes that the information sought by the appellant is voluminous in nature and may not be readily available with the CPIO in the manner as sought by the appellant, collating and compiling of which would disproportionately divert the resources of the respondent organization. Hence, the disclosure of information is exempted as per Section 7(9) of the RTI Act.*" In view of these observations, I do not find any deficiency in the response.

9. Further, I note that the requested information has also been denied by the respondent under section 8(1)(g) and 8(1)(j) of the RTI Act. I note that the respondent has informed the appellant that the

information sought does not pertain to the appellant and relates to personal information, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individuals and may also endanger the life or physical safety of the person(s). On consideration, I concur with the response of the respondent that in all instances of conflict of interest where recusal has been made, it is due to personal interest in the matter and that the requested information regarding documented instances pertains to personal information of fiduciary nature, which relates to and supplied by third party treating them as confidential. In this context, reliance is placed on the decision of the Hon'ble Supreme Court of India in *Institute of Chartered Accountants of India Vs. Shaunak H. Satya and Ors.*, in Civil Appeal NO. 7571 of 2011- dated 02/09/2011, wherein it was held that: "... In other words, anything given and taken in confidence expecting confidentiality to be maintained will be information available to a person in fiduciary relationship". Further, on perusal of the appeal, I note that the appellant failed to provide any submissions as to how the disclosure of the information is justified by larger public interest. In this context, I note that the Hon'ble High Court of Delhi in the matter of *Municipal Corporation Delhi vs. Rajbir W.P.(C) 13219/2009 and CM 14393/2009*, decided on 24.8.2017 had held that:

"9..... Respondent has not provided any credible justification for seeking information regarding the personal assets of the MCD employee in question.

10. There can be no doubt that the information sought by respondent is personal information concerning an employee of MCD. Such information could be disclosed only if respondent could establish that disclosure of such information was justified by larger public interest." Accordingly, I do not find any deficiency in the response of the respondent.

10. Additionally, I concur with the respondent that the said request pertaining to "senior officials" is vague and not specific. It is an established law that the information sought for in order to be disclosable under the RTI Act, must be clear, specific and available in the records of the public authority. In this context, I note that in the matter of *Mr. T. V. Sundaresan vs. CPIO, Securities and Exchange Board of India* (Decision dated November 24, 2021), the Hon'ble CIC held: "*The framework of the RTI Act, 2005 expects that the information sought is specific and believed to be existing with the public authority in documented or material form as such; which can be shared with the appellant as per the provisions of the RTI Act. Answering to broad, multiple and general queries and presumptive documents that should have been generated as per the expectation of the appellant cannot be furnished under the provisions of the Act.*" Accordingly, I do not find any deficiency in the response of the respondent.

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: October 09, 2024

RUCHI CHOJER

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