

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

Appeal No. 6047 of 2024

	:	Appellant
Ajay Basudev Bose		
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 30, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated June 13, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00129) dated June 17, 2024. 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. **Request in the application** - The appellant, vide his application dated May 30, 2024, sought the following information:

“Under RTI act Please provide information related to Showcause Notices issued to 7 Listed Adani Group of Companies by SEBI for alleged Violations of various Rules including disclosure and related party transaction norms SEBI issued notices to
A) Adani Enterprises
B) Adani Energy Solutions
C) Adani Green Energy
D) Adani Ports
E) Adani Power
F) Adani Total Gas
G) Adani Wilmar In view of the aforesaid facts kindly provide following information
1) Please provide Copies of Showcause Notices issued by SEBI to above mentioned 7 Adani Group of Companies
2) Please provide details of action taken by SEBI against above mentioned 7 Adani Group of Companies”
3. **Reply of the Respondent** - The respondent, in response to the aforesaid request, informed that the Show Cause Notices (SCNs) contain information w.r.t. analysis of the bank statements, transaction with certain other entities, discussions held and approvals granted in Board Meeting, Audit Committee Meetings etc. Further, the respondent informed that SCNs issued to entities also contain information which is private and confidential and is held by SEBI in fiduciary capacity. Hence, the disclosure of the

same could harm the competitive position of the entities. In view of these, the information sought is exempted u/s 8(1)(d) & 8(1)(e) of RTI Act, 2005

Additionally, the respondent informed that SEBI conducts examinations and investigations confidentially in a holistic manner. In view of the same, disclosure of details related to the matter may impede the said process and is therefore exempt from disclosure in terms of Section 8(1)(h) of the RTI Act, 2005. Additionally, the respondent informed that post investigation, whenever violations are established, appropriate enforcement actions are taken under the provisions of the SEBI Act, 1992 and Regulations framed thereunder which culminate in the issuance of Orders. The respondent informed that these orders are available in public domain and can be accessed from the SEBI website.

4. **Ground of appeal** - The appellant has filed the appeal on the ground that the information provided is incomplete, misleading and false information.
5. I have perused the application and the response provided thereto. With respect to the request seeking copy of SCNs issued by SEBI to Adani Group Companies, I agree with the response of the respondent that the requested information is held in a fiduciary capacity and includes commercial information which is confidential in nature. I have no reason to disbelieve the said response. In the context of non-disclosure of information under Section 8(1)(e) of the RTI Act, 2005, 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 is referred to, 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, the Hon'ble Central Information Commission (hereinafter referred to as "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, therefore, find that such information pertaining to commercial confidence and which contains information given/received in 'fiduciary relationship' to/from market participants etc. is exempted from disclosure under Sections 8(1)(d) and 8(1)(e) of the RTI Act. Accordingly, I do not find any deficiency in the response.
6. Further, I agree with the response of the respondent that disclosure of the requested information at this stage may impede the process of examination. In this context, I note that the Hon'ble CIC in the matter of *Smt. Pushpa Devi Mohita vs. SEBI* (order dated February 08, 2022), held that " *The Commission observes that*

the information sought by the appellant is submitted to SEBI which is a quasi-judicial body for examination and the same has not yet reached a logical conclusion, therefore the respondent has denied the information under section 8(1)(b) and as per the said provisions of the RTI Act, such information cannot be provided to the appellant which would impede the process of investigation.....In view of the above ratio, the Commission is of the opinion that the CPIO has rightly denied the information sought under Section 8(1)(b) of the RTI Act as the forensic audit report is still pending and final decision is yet to be passed by the competent authority, therefore the said denial of information is being upheld by the Commission.” I also note that the Hon’ble CIC, in the matter of *Deepti Maheshwari vs. CPIO, SEBI* (Order dated February 09, 2023), observed that *“The Commission also accepted the submissions advanced by the CPIO qua queries 8, 10 and 11 that since the proceedings were on-going, the disclosure of any information at that juncture may have impeded the process of investigation/ prosecution of offenders. Therefore, the denial u/s 8 (1) (b) of the RTI Act, 2005 was upheld.”* In view of these observations, I do not find any deficiency in the response. Notwithstanding the above, I note that the respondent has informed the appellant that the enforcement actions culminate in issuance of Orders, which are made available in public domain on SEBI website.

7. 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 09, 2024

RUCHI CHOJER

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