

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

Appeal No. 6110 of 2024

Anil Kumar Sehgal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated August 02, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 ("**RTI Act**"). The respondent, by a letter dated August 12, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00176) dated August 13, 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. **Ground of appeal** - The appellant filed the appeal on the ground that the information provided is incomplete, misleading or false information.
3. **Request nos. 1, 4 and 5 of the application** - The appellant, vide his request nos. 1, 4 and 5 of the application dated August 02, 2024 sought the following information:

"1. Please provide copies of all notings, whether available online or offline, from the files of SEBI on the basis of which regulation 17(1C) of the LODR Regulations was introduced."
"4. Please provide copies of Notings, whether available online or offline, from the relevant files of SEBI, in which Letter dated 8th July, 2022 of the DPE was dealt with on the basis of final decision was taken by SEBI regarding amendments in 17(1C) of the LODR Regulations"
5. Please provide copies of Notings, whether available online or offline, from the relevant files of SEBI, in which representations received from listed public sector companies for exemption from compliance with regulation 17(1C) of the LODR Regulation were dealt with on the basis of final decision was taken by SEBI regarding amendments in 17(1C) of the LODR Regulations."
4. **Reply of the Respondent** - The respondent, in response to the aforesaid requests informed that the information pertains to internal functioning of SEBI and is strategic in nature, disclosure of which may hamper the decision-making by SEBI in its supervisory and regulatory role. Further, the respondent informed that the information sought includes commercial confidential information of other entities, the

disclosure of which could hamper the competitive position of the entities. Hence the information sought is exempt u/s 8(1)(a) & 8(1) (d) of RTI Act.

5. I have perused the application and the response provided thereto. I note that the respondent has categorically informed the appellant that the information sought is strategic in nature and the information sought is exempt u/s 8(1)(a) of RTI Act, 2005. I agree with the response of the respondent that the requested information pertains to internal functioning of SEBI and relates to systems and procedure followed by SEBI, which is strategic in nature. I find that the disclosure of the requested information would affect and compromise the regulatory and supervisory role of SEBI. The same may also hamper decision making by SEBI. In this context, I note that in *ICAI v. Shaunak H. Satya*, [(2011) 8 SCC 781], the Hon'ble Supreme Court held that: - "*The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources.*" Accordingly, I do not find any deficiency in the response of the respondent. Notwithstanding the above, I note that the rationale for seeking exemption from compliance of Regulation 17(1C) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 is provided in 'Agenda' placed in the SEBI Board Meeting held on December 20, 2022, which is available on SEBI website (www.sebi.gov.in) under the path: "About > About SEBI > Board Meetings". The respondent may be guided by the same.
6. Further, I note that the aforesaid information was also denied by the respondent under Section 8(1)(d) of the RTI Act. However, on consideration, I find that the respondent has not provided sufficient justification for the invocation of the aforesaid Section.
7. **Request nos. 2 and 3 of the application** - The appellant, vide his request nos. 2 and 3 of the application dated August 02, 2024 sought the following information:

"2. Please provide a copy of letter dated July,08, 2022, whether available online or offline, received by SEBI from the Department of Enterprises (DPE) regarding regulation 17(1C) of the LODR Regulations.

3. Please provide copies of representations, whether available online or offline, received from all such listed public sector companies as requested for exemption from compliance with regulation 17(1C) of the LODR Regulations."
8. **Reply of the Respondent** - The respondent, in response to the aforesaid requests, informed that since the information sought is available to SEBI in fiduciary capacity and includes commercial confidential information, the disclosure of which could harm the competitive position of the entities. Hence, the same is exempt u/s 8(1)(d) & 8(1)(e) of the RTI Act, 2005.

9. I have perused the requests and the response provided thereto. I note that the appellant, in his application, *inter alia*, sought copies of Department of Enterprises, MoF letter dated July 08, 2022 and representations received from all listed public sector companies regarding regulation 17(1C) of the LODR Regulations. On consideration, I concur with the response of the respondent that the requested information is available to SEBI in fiduciary capacity. 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*". I, therefore, find that the requested information is exempt from disclosure under section 8(1)(e) of the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent. Notwithstanding the above, I note that the information regarding the contents of the representations, received by SEBI from public sector companies and Department of Public Enterprise (DPE), seeking exemption from compliance of Regulation 17(1C) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 is provided in 'Agenda' placed in the SEBI Board Meeting held on December 20, 2022, which is available on SEBI website, as mentioned above. The respondent may be guided by the same.
10. Further, I note that the aforesaid information was also denied by the respondent under Section 8(1)(d) of the RTI Act. However, on consideration, I find that the respondent has not provided sufficient justification for the invocation of the aforesaid Section.
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: September 10, 2024

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