

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

Appeal No. 5701 of 2023

Amit Jain	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 07, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 16, 2023 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00121) dated June 04, 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 07, 2023, sought the following information:

“Please provide details of complaints received through SCORES from 1st April 2022 to 30th April 2023. Provide status of investigation including copies of notices of such complaints received.”
3. The respondent, in response to the aforesaid query, informed that the requested information is exempt from disclosure under section 8(1)(e) of the RTI Act as the same is available to SEBI in fiduciary capacity and there is no larger public interest involved in disclosure of the said information.
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, submitted that not sharing information and not putting in public domain is not in the interest of the investors as well as public.
5. I have perused the application and the response provided thereto. I note that the appellant has sought details of the complaints filed through SCORES during the month of April 2023. On consideration, I agree with the response of the respondent that the requested information is held in a fiduciary capacity. I note that in Writ Petition (Civil) Nos. 8396/2009, 16907/2006, 4788/2008, 9914/2009, 6085/2008,

7304/2007, 7930/2009 and 3607 of 2007, the Hon'ble High Court of Delhi, in its order dated November 30, 2009, held that the 'person' referred to in section 8(1) (e) of the RTI Act will include a public authority. It also held that: *"In a fiduciary relationship, the principal emphasis is on trust, and reliance, the fiduciary's superior power and corresponding dependence of the beneficiary on the fiduciary. It requires a dominant position, integrity and responsibility of the fiduciary to act in good faith and for the benefit of and to protect the beneficiary and not oneself"*. Further, the Hon'ble 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 find that SEBI, being the regulatory authority for the securities market, gets various references/documents/complaints from market participants and the information contained therein are received in 'fiduciary relationship'. I also find that such reference/ documents received by SEBI or correspondences made by SEBI with other entities may contain commercial information which is confidential in nature, disclosure of which may adversely impact the competitive position of the concerned entities. I, therefore, find that such information pertaining to commercial confidence and which contains information received in 'fiduciary relationship' from market participants etc. is exempted from disclosure under Sections 8(1)(d) and 8(1)(e) of the RTI Act. I also find that the requested information 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. Further, I note that the appellant has failed to demonstrate existence of larger public interest in disclosing the requested information. 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

ANAND BAIWAR

Date: June 30, 2023

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