

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

Appeal No. 4838 of 2022

Subhash Chandra Agarwal	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated February 27, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated March 21, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated March 23, 2022. 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 February 27, 2022, sought the copies of complete Inspection Reports as done by SEBI in respect of National Stock Exchange (NSE) from the year 2013 till date. Further, the appellant referred to a judgement of the Hon’ble Supreme Court regarding Inspection Reports prepared by the Reserve Bank of India. The appellant also stated that SEBI being regulatory public authority in respect of NSE, is bound to provide Inspection Reports in respect of NSE under provisions of RTI Act. The appellant also sought file- notings on movement of his application.
3. The respondent, in response to the aforesaid query, informed that the information sought pertains to the internal functioning of SEBI and disclosure of which may hamper the decision making by SEBI in its supervisory and regulatory role. The respondent also informed that the requested information is exempt from disclosure under Section 8(1)(d) of the RTI Act as the same includes commercial confidential information of other entities, the disclosure of which could harm their competitive position. Further, the respondent stated that information about any enforcement action taken by SEBI is available on the SEBI website, which is in the public domain. The respondent also provided the link/path for accessing the same.

4. **Ground of appeal-** The appellant has filed the appeal on the ground that information provided was incomplete, misleading or false. The appellant, in his appeal, *inter alia*, submitted that the requested information is not covered under any sub-section of exemption clause of section 8(1) of the RTI Act. Further, the appellant stated that the Hon'ble Supreme Court has directed Reserve Bank of India (RBI) in its regulatory authority to provide copies of Inspection Reports of all banks including even private sector banks apart from public sector banks.
5. I have perused the query and the response provided thereto. On consideration, I agree with the response of the respondent that the requested information pertains to the internal functioning of SEBI and disclosure of the same would affect and compromise the regulatory functions and roles of SEBI. The same may also hamper decision making by SEBI. I note that inspection is one of the tools available with SEBI to prevent or take action for any fraud or prevention of any unfair trade practices. In this regard, I note that when SEBI conducts inspection, the resultant inspection report along with the information collected/exchanged during the course of such inspection, may contain commercial information of the concerned entity which is confidential in nature. Whenever such inspection is conducted by SEBI against any such entity, upon its completion, the inspecting authority submits an inspection report along with the related papers, to the competent authority, which contains the tentative findings about the conduct of the inspected entity. There is a subsequent process to determine the validity of such findings. Accordingly, depending on the nature of business of the inspected entity and the purpose of inspection, the inspection report along with the information collected/exchanged during the course of such inspection, may contain details of turnover, business process/ dealings, other business details, etc. of such entity, which are in the nature of commercial confidence. Having regard to the aforesaid observations, I find that the disclosure of requested information is exempt under section 8(1)(d) of the RTI Act. Accordingly, I do not find any deficiency in the response.
6. Further, I note that the appellant, in his application and appeal, has referred to the decision of the Hon'ble Supreme Court which deals with the issue of fiduciary relation of the Reserved Bank of India with other banks and financial institutions. I note that the facts and circumstances of the said matter were totally different. In this regard, reliance is placed on the matter of *Arun Damodar Sawant vs. SEBI* (Order dated September 26, 2018) wherein, the Hon'ble CIC had accepted the submission of SEBI regarding existence of fiduciary relationship even after considering the appellant's submissions wherein he had relied upon the aforementioned judgement of Hon'ble Supreme Court. In view of the said observations, I do not find any merit in the submission of the appellant.

7. I note that the appellant, in his application, had also sought file- notings on movement of his application. I find that the respondent has neither provided the requested information nor explained the reasons why the same is not provided. Therefore, the respondent shall reconsider the query and provide an appropriate response.
8. In view of these observations, I remit the application to the respondent for reconsidering the query seeking file-notings on movement of the application, and to provide appropriate response within 15 working days from the date of receipt of this order.
9. The Appeal is accordingly disposed of.

Place: Mumbai
Date: April 21, 2022

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