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

Appeal No. 6222 of 2024

Amar Patil	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 23, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 ("**RTI Act**"). The respondent, by a letter dated October 09, 2024, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00270) dated November 08, 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 September 23, 2024, sought the following information:

" I am writing to request information under the Right to Information Act, 2005. I seek access to all documents and information in any form related to the formation of the following SEBI circulars:

1.SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021

2. SEBI/HO/MIRSD/DOP/P/CIR/2022/101 dated July 27, 2022

3. SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2023/197 dated December 28, 2023

Specifically, I request:

1)All documents pertaining to the research and development conducted by SEBI for these circulars, including internal memos, reports, and analysis.

2)All Documents related to investigation made by SEBI or other entities for the formation of these circulars

3)All the information in any form related feedback, comments, or complaints received from market participants, investors, or other stakeholders regarding these circulars, along with any responses or actions taken by

4)All the information in any form reated to Transcripts or minutes of any meetings, discussions, or deliberations by SEBIs committees or board regarding these circulars

5) Copies of all legal opinions or advice obtained by SEBI regarding the legality or enforceability of these circulars

6) All documents related to impact assessments conducted by SEBI prior to issuing these circulars Please provide this information in a timely manner as stipulated by the RTI Act."

3. **Reply of the Respondent** - The respondent, in response to request in the application, informed that the information sought by the respondent is strategic in nature and pertains to the policy making decisions of SEBI. The respondent also stated that the disclosure of information would result in revealing the mind of the regulator and hence, hamper the decision making by SEBI in its supervisory and regulatory role. The respondent also informed that the disclosure of such strategic and confidential information would also affect and compromise the interest of the securities market in specific, and may impact the economic interests of the country. Additionally, respondent informed that the information sought is available to SEBI in fiduciary relationship and includes commercial confidential information, the disclosure of which would harm the competitive position of the entities. In view of the above, the respondent stated that the information sought is exempt u/s 8(1) (a), 8(1) (d) and 8(1) (e) of the RTI Act.

4. **Ground of appeal** – The appellant has filed the appeal on the ground that he was refused access to information requested

5. I have perused the application and the response provided thereto. I note that SEBI, being the regulator of securities market, issues various circulars/ guidelines etc. for regulating activities in securities market. SEBI also revisits the prevailing procedures/ systems, *inter alia*, for improving the same or for dealing with emergent situations. In this process, SEBI may seek comments from the public and experts on issues under its consideration. I note that any information relating to the formulation of such regulatory policy may also entail an evaluation of various views submitted by concerned/related market participants which were intended to be confidential on account of the commercial/trade related aspect involved. Disclosure of public comments received by SEBI and documents relating to the deliberations in the process, may reveal issues which are under consideration of SEBI or actions contemplated by SEBI in future, which are strategic in nature and thus would have an impact on the decision making of

SEBI in particular. I note that any breach of confidentiality through disclosure of such information, available in a fiduciary capacity with SEBI (*reliance placed on the Delhi High Court's Order dated November 30, 2009 in Writ Petition (Civil) Nos. 8396/2009, 16907/2006, 4788/2008, 9914/2009, 6085/2008, 7304/2007, 7930/2009 and 3607 of 2007*) and which may be contained in the aforementioned documents, may affect the regulator's ability to obtain necessary inputs, etc. from such entities in future. Further, the Hon'ble Central Information Commission in matter of *Shri Ravi Ramaiya vs. SEBI (Decision dated September 11, 2015)* accepted the contention of SEBI that information received in confidence as part of regulatory process, which is strategic in nature and held in fiduciary capacity is exempt from disclosure under RTI Act, as the same may compromise the regulatory functions of SEBI. In view of these observations, I agree with the response of the respondent that the requested information is exempt from disclosure under section 8(1)(a), 8(1)(d) and 8(1)(e) of the RTI Act. Accordingly, I do not find any deficiency in the response of the respondent.

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
Date: December 05, 2024

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