

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

Appeal No. 6310 of 2025

Mahesh Kumar Sahu : Appellant

Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated December 08, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated December 30, 2024, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/25/00027) dated January 30, 2025. 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 has filed the appeal on the ground that the he was refused access to information requested. The appellant in his appeal has raised dispute only with the response to query nos. 1, 3 & 4 in the application.
3. **Query nos. 1, 3 & 4 in the application** - The appellant, vide query nos. 1, 3 & 4 in his application dated December 08, 2024, sought the following information:

“1. A copy of a letter dated 04.02.2014 sent by the SP of district Rajnandgaon (C.G.) to the SEBI regarding Anmol India Agro Herbal Farming and Dairies Care Company Ltd.

3. A copy of the inventory/ list of properties submitted by Anmol India India Agro Herbal Farming and Dairies Care Company Ltd. in compliance with SEBI orders (specifically, the interim order dated March 9, 2015 of SEBI, and subsequent orders).

4. Any observations or remarks by SEBI regarding the sufficiency or accuracy of the property details provided by Anmol India India Agro Herbal Farming and Dairies Care Company Ltd. ”

4. **Reply of the Respondent** - The respondent, in response to query no. 1 in the application, informed that the originator of letter dated 04.02.2014 is SP of district Rajnandgaon (C.G.) and SEBI is the secondary holder of the letter. Further, the respondent informed that the information sought by the appellant is available to SEBI in fiduciary capacity and hence, the same is exempted u/s 8(1)(e) of RTI Act.

The respondent, in response to query nos. 3 & 4, informed that the information sought is not available with SEBI.

5. I have perused the aforesaid queries and the response provided thereto. With regard to query no.1, I note that the respondent has categorically stated that information sought is held by SEBI in a fiduciary capacity. I note that SEBI, being the regulatory authority for the securities market, gets various references/documents from various entities and the information contained therein are received in 'fiduciary relationship. In the context of non-disclosure of information under Section 8(1)(e) of the RTI Act, 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 (**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." On perusal of the appeal, I note that the appellant has submitted that since Anmol India Agro Herbal Farming and Dairies Care Company Ltd. (**Anmol**) had engaged in illegal mobilisation of funds, the disclosure of information is in larger public interest. In this regard, reliance is placed on the matter of the *Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizvi* (Judgement dated December 13, 2012) wherein the Hon'ble Supreme Court, had observed that the exemption provided under Section 8 of the Act is the rule and only in exceptional circumstances of larger public interest the information would be disclosed. The relevant observations are mentioned as under:

"22. The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (State of Bihar v. Kameshwar Singh [MANU/SC/0020/1952 : AIR 1952 SC 252]). It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [Black's Law Dictionary (8th Edn.)]."

23. The satisfaction has to be arrived at by the authorities objectively and the consequences of such disclosure have to be weighed with regard to the circumstances of a given case. The decision has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision."

I note that SEBI, in the interest of investors and the securities market and in exercise of its powers given under SEBI Act, vide its final order dated May 19, 2016, has issued directions against Anmol and its directors. Considering the aforesaid and applying the ratio laid down in the aforementioned decisions to the instant matter, there does not appear a larger public interest in disclosing the requested information. Therefore, I 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.

6. The respondent, in his response to query nos. 3 to 4, has categorically mentioned that the requested information is not available with SEBI. I note that the respondent can only provide information that is available in the records. In this context, I note that the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**") in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: "... if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given". Accordingly, I do not find any deficiency in the response of the respondent.

7. I note that the appellant, in his appeal, has challenged the correctness of the response of the respondent. In this context, it is also observed that the Hon'ble High Court of Delhi in *Narendra Tyagi vs. Assistant Director (CPIO)* (Decision dated December 06, 2023) has held: "*it is clear that dispute as regards the correctness of information provided under the RTI Act, or any other dispute or controversy, cannot be adjudicated in proceedings under the RTI Act. The CPIO is only required to supply all the information/documents within his access. Whether or not such*

information as provided by the CPIO under the RTI Act is incorrect in any manner, is not the domain of consideration or determination under the RTI proceedings.”

8. 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: February 28, 2025

RUCHI CHOJER

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