

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

Appeal No. 5517 of 2022

Umesh Yadav	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application (Reg. No. SEBIH/R/P/22/01763) dated September 06, 2022 (received by SEBI on September 08, 2022) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 07, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated November 17, 2022 (received by the Office of Appellate Authority on November 28, 2022). I have perused the application, the response of the respondent 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, in his application dated March 22, 2022, *inter alia*, sought the following information:
 1. *Whether SEBI has taken any legal action against Togo Retail Company Limited and its affiliated companies (A) Togo Swasthya evam Jana Kalyan (B) Vamsi Chemicals Limited (C) Basill International Ltd. (D) Nixil Pharmaceuticals (E) Jaig Polymers Ltd. (F) Minani Tacto Engineering Ltd. (G) Jeosbine Mines Ltd. (H) Petron Minerals and Metals Ltd. (I) Veall Mutual Benefit Nidhi Ltd.*
 2. *If yes, then please provide information regarding type of action taken on the companies.*
3. The respondent, in response to the aforesaid queries, informed that SEBI conducts examination based on the references and alerts received by it. Further, any investigation is conducted confidentially, as examinations are sensitive in nature. The respondent informed that SEBI will not be able to confirm/ deny the existence or otherwise of any examination in the matter for which information has been sought by the appellant. The respondent also informed that any regulatory

actions taken by SEBI are published on the SEBI website. The respondent also provided the link for accessing the said website.

4. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. The appellant, in his appeal, *inter alia*, submitted that response provided by the respondent is not clear.
5. I have perused the queries and the response provided thereto. I note that the respondent has neither confirmed nor denied existence of examination or investigation in the matters referred by the appellant in his application. I find that the same is justified where disclosure of existence of investigation or otherwise would itself amount to disclosure of exempted information. I note that SEBI receives alerts and references from various sources and these may or may not result in further action by SEBI such as examination or investigation. Further, such examination or investigation may or may not establish the suspected violations or lead to enforcement actions. Maintaining confidentiality of investigation is important since reports of an investigation may result in unwarranted speculation or concern in the market or may affect evidence collection during the investigation or may result in unnecessary harm to third parties. In this regard, I note that the Hon'ble CIC, in the matter of *Smt. Anju Sharma vs. CPIO, SEBI* (order dated September 28, 2020) observed that “10. In light of the factual matrix of the case and the referred case-laws on the subject, this Commission comes to the conclusion that the commercially sensitive information which are received in confidence from various references and sources for the purpose of examination/investigation by the SEBI may or may not result in examination/investigations/actions/further action by SEBI and any disclosure in this regard has the potential to affect the pricing policy and unnecessary speculations in the stock market. Therefore, there is no larger public interest in the matter in disclosing the sought for information. Hence, disclosure of existence or non-existence of any investigation/examination of a particular matter would impede the process of investigation/prosecution as well as it has commercial bearing on the competitive position of third party(s) in the highly competitive capital market(s). As such the sought for information is exempted u/ Section 8(1)(d) r/w Section 8(1)(b) of the RTI Act, 2005.” Further, I note that the information regarding any regulatory action taken by SEBI would be available on the website of SEBI. In view of these observations, I find that the respondent has adequately addressed the queries and I do not find any deficiency in the response.

6. Notwithstanding the above, the appellant may access the orders passed by SEBI against Togo Retail Marketing Limited at the following link:
<https://www.sebi.gov.in/sebiweb/home/HomeAction.do?doListing=yes&sid=2&ssid=9&smid=2>
7. 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 28, 2022

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