

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

Appeal No. 6031 of 2024

	:	Appellant
Nand Lal		
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated May 02, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated May 30, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00109) dated May 31, 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. **Requests in the application** - The appellant, vide his application dated May 02, 2024, in reference to para no.18 of SEBI’s final order dated January 9, 2023 in the matter of Capitalaim Investment Advisor Pvt. Ltd. sought the following information:

*“1. Please provide me the copy of documents/ letters supplied and documents/ letters received if any from Recognized Stock Exchanges.
2. Please provide me the copy of documents/ letters supplied and documents/ letters received if any from Relevant Banks.
3. Please provide me the copy of documents/ letters supplied and documents/ letters received if any from Depositories.
4. Please provide me the copy of documents/ letters supplied and documents/ letters received if any from Registrar.
5. Please provide me the copy of documents/ letters supplied and documents/ letters received if any from Transfer Agents.
6. Please provide me the copy of documents/ letters supplied and documents/ letters received if any from Recognized Stock Exchanges.
7. Please provide me the copy of documents/ letters supplied and documents/ letters received if any from Concerned Police Authorities.
8. Please provide me the copy of documents/ letters supplied and documents/ letters received if any from Government of Madhya Pradesh.”*
3. **Reply of the Respondent** - The respondent, in response to aforesaid request informed that the information sought is confidential in nature and is available to SEBI in fiduciary capacity, disclosure of which may impact the strategic decision making of the regulator and the competitive position of the market participants in the securities market. Further, the respondent informed that there is no large

public interest involved in disclosure of said information. Disclosure of such information is therefore exempt u/s 8(1)(d) & 8(1)(e) of RTI Act, 2005.

4. **Ground of appeal** – On perusal of the appeal, it appears that the appellant is not satisfied with the reply of respondent.
5. I have perused the query and the response provided thereto. I note that the appellant has, *inter alia*, sought information regarding the matter of Capitalaim Financial Investment Advisor Pvt. Ltd., wherein SEBI had issued a final order dated January 9, 2023. I note that the respondent has informed the appellant that the information sought is confidential in nature and is available to SEBI in fiduciary capacity, disclosure of which may impact the strategic decision making of the regulator and the competitive position of the market participants in the securities market. Hence, the same is exempt u/s 8(1)(d) & 8(1)(e) of RTI Act, 2005. With respect to requests nos. 1-6 of the application, I have no reason to disbelieve the said response. 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: *"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 from various entities 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 other entities is exempted from disclosure under Sections 8(1)(d) and 8(1)(e) of the RTI Act. Accordingly, I do not find any deficiency in the response.
6. However, with respect to request nos. 7 and 8 of the application, the appellant in his appeal has submitted that the information requested was earlier provided to him in his earlier RTI application (Registration no. SEBIH/R/E/23/00637) dated June 29, 2023 and it is not understood as to why the

same is being denied to him now. On perusal of the materials available on record, I note that with respect to request no. 7 of the application, similar request has been made by the applicant in his earlier RTI application as mentioned above and the response has been provided by the respondent for the same. Hence, I find that the said request is repetitive in nature. In the context of filing repetitive requests under RTI Act, the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**") in the matter of *Sbri Ramesh Chand Jain vs. Delhi Transport Corporation, GNCTD, Delhi* (File No. CIC/AD/A/2013/001326-SA decided on June 25, 2014) held that "*The universal principles of civil justice also recognized 'constructive res judicata', which in the RTI context means when an applicant uses an opportunity of obtaining information on a particular subject as per law, he is expected to seek all the related information in that first ever opportunity itself. He cannot file another application for a bit or piece which he forgot to ask, or not advised by his lawyer, or for any other reason. He should ask all possible aspects of information about that subject matter, in the first ever available opportunity. Even if he does not, it is presumed by law that he asked for that and was refused after due trial..... Thus, once information is given, applicant shall not seek the same once again in the guise of different form or language. If the applicant seeks information again and again, the PIO, the First Appellate Authority and the Commission would be forced to spend their time on this repeated application, and in the process the authorities would lose that much time to address the other RTI applications or performing their general duties in their public office. Repeated RTI applications will amount to clogging the office of public authority and CPIO would be justified in refusing the same with intimation of reasons. Because the repeated RTI application has an effect of clogging the public offices, it would amount to obstructing the free flow of information to deserving and genuine RTI applicants, besides preventing the officers from performing their general duties attached to their office*". Accordingly, I find that no further intervention of this forum is warranted at this stage with respect to the said request.

7. As regard, request no. 8 of the application, seeking copy of documents/letters supplied and received, if any, from Government of Madhya Pradesh, I note that the respondent has in his response dated July 27, 2023 to earlier RTI application (Registration no. SEBIH/R/E/23/00637) dated June 29, 2023, had provided the appellant with copy of letter sent by SEBI to Government of Madhya Pradesh in the said matter. In view of the aforesaid facts, I find that the respondent was obliged to ascertain availability of the requested information with SEBI and whether the same may be provided to the appellant in accordance with the provisions of the RTI Act. On consideration, I find that the aforesaid request has not been adequately addressed and the same warrants reconsideration

8. Considering the above observations, I remit the application to the respondent for *de novo* consideration of request no. 8 of the application and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.
9. The Appeal is accordingly disposed of.

Place: Mumbai

Date: June 24, 2024

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