

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

Appeal No. 6354 of 2025

Yogesh Hanumant Hagavane	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated February 10, 2025 under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated March 13, 2025, responded to the application filed by the appellant. The appellant filed an appeal dated March 25, 2025 (received by the Office of Appellate Authority on April 03, 2025). 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 February 10, 2025, sought the following information:

“ (3) *Particulars of Information required:*

.....

(iii) Description of the information required:§

1) Information about copies of SEBI's internal memos, file noting's, inter-departmental communications, and meeting minutes related to the Quant Mutual Fund investigation.

2) SEBI shared data with or sought assistance from other regulatory bodies such as: Financial Intelligence Unit (FIU-IND), Income Tax Department, Enforcement Directorate (ED), Reserve Bank of India (RBI), Central Board of Direct Taxes (CBDT), provide details of any inter-agency coordination reports or intelligence-sharing agreements specific to this case.

- 3) *Information about copies of Quant Mutual Fund's regulatory filings, compliance submissions, and responses to SEBI's inquiries over the past two years, highlighting any internal concerns about suspicious trading practices.*
- 4) *Information about detailed analysis of the change in investor behavior (large institutional redemptions, bulk unit sales, reallocation patterns) in Quant Mutual Fund before and after SEBI's probe became public. List the top 10 investors (without disclosing personal details) who withdrew funds exceeding Rs. 50 crore in the three months leading up to the investigation.*
- 5) *Provide a summary of any delta-hedging or volatility-arbitrage strategies detected around the period of alleged front-running.*
- 6) *Has SEBI used cyber-forensic techniques (email metadata tracking, IP log analysis, encrypted chat surveillance) to examine insider communications linked to Quant Mutual Fund? Provide technical details on any block chain-based forensic tracking SEBI deployed to trace illicit money movements.*
- 7) *Has SEBI identified any instances where a Quant Mutual Fund trader and an external counterparty placed market-moving orders within the same nanosecond window? Provide details of any proprietary collusion-detection algorithms SEBI has deployed for detecting coordinated fraud in mutual fund transactions.*
- 8) *Has SEBI mandated new personal trading restrictions on Quant Mutual Fund employees or its fund managers? Provide a copy of Quant Mutual Fund's internal code of ethics & compliance manual filed with SEBI."*

3. **Reply of the Respondent** - The respondent, in response to the query nos. 1, 2, and 6, informed that SEBI conducts examinations and investigations confidentially in a holistic manner to examine alleged or suspected violations of laws and Regulations related to securities market and if found necessary, further action is taken. As disclosure of details related to the matter may impede the process of investigation or apprehension or prosecution of offenders, the same is exempt from disclosure in terms of Section 8(1)(h) of the RTI Act.

The respondent, in response to query no. 3, informed that SEBI receives various references from various sources, which may, *inter-alia*, include information, other than the subject matter, in the nature of regulatory inputs, which is highly confidential in nature and disclosure of which would reveal the mind of the regulator and affect the strategic decision making of the regulator as a whole. Further, these references are received by SEBI in fiduciary relationship and the disclosure of any such information would harm the

competitive position of the entities and authorities. In view of the above, the respondent informed that the information sought is exempt u/s 8(1)(d) & 8(1)(e) of RTI Act.

The respondent, in response to query nos. 4 and 5, the information sought by the appellant is not maintained by SEBI in normal course of regulation of securities market. Hence the same is not available with SEBI.

The respondent, in response to query nos.7 and 8, informed that the information sought by the appellant is in the nature of seeking clarification/opinion Accordingly, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act.

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, has contended that the respondent has wrongly invoked section 8(1)(d), 8(1)(e), 8(1)(h) and section 2(f) of the RTI Act to deny the information. The appellant has submitted that information sought by him does not relate to trade secrets/ intellectual property but concerns regulatory oversight and public accountability. The appellant has also contended that SEBI did not act in a fiduciary capacity to Quant Mutual Fund and that the respondent has failed to establish how disclosure of information would impede the investigation.
5. I have perused the application and response provided thereto. With regard to query nos. 1, 2, and 6, I note that the respondent has denied the information under Section 8(1)(h) of the RTI Act. In this regard, the appellant has contended that respondent has failed to establish how disclosure of information would impede the investigation. In this context, I note that Hon'ble High Court of Madras in its judgement in *Gulab Singh Rana vs. CPIO, Indian Overseas Bank*, WP No 37231/ 2016 decided on 08.12.2021 has held:

"44. Where the circumstances narrated under Section 8(h) on that information, which would impede the process of investigation or apprehension or prosecution of offenders. Thus, if the information provided, would cause any hindrance to the investigation or apprehension or prosecution of offenders. The language employed is "Apprehension". Thus, "Apprehension" of the competent authority is also considered in the legislation. The word "Apprehension", no doubt, can be interpreted widely and further, it provides discretion to the authorities for forming an opinion, whether there is an "Apprehension" or not. In this regard, the subjective satisfaction of the competent authority is of paramount importance. The Public Information Officer is expected to consider in the event of furnishing such information, which all are connected with the investigation or prosecution of offenders and providing of such information, would impede the process, then, he is empowered to exercise power of discretion and reject the application of the information seeker.

.....
 49. In this context, the rights of both the parties should be considered by the Courts. It is not only the right of the information seekers, but the right of the information provider must also be considered by this Court.

State being the prosecutors, right of investigation, collected evidence, record the opinions and views in those files must be protected in all circumstances and by obtaining all such information and documents from the competent authorities, the accused may not be allowed to destroy the basis of prosecution as such views/ opinions or internal correspondence can never be construed as final opinion/ views or the final decision."

I also note that the Hon'ble Central Information Commission (hereinafter referred to as "CIC"), in the matter of *Deepti Maheshwari vs. CPIO, SEBI* (Order dated February 09, 2023), observed that "*The Commission also accepted the submissions advanced by the CPIO qua queries 8, 10 and 11 that since the proceedings were on-going, the disclosure of any information at that juncture may have impeded the process of investigation/ prosecution of offenders. Therefore, the denial u/s 8 (1) (b) of the RTI Act, 2005 was upheld.*" Accordingly, I concur with the response of the respondent that the disclosure of the information sought by the appellant may impede the process of investigation and I do not find any deficiency in the response.

6. With respect to query no. 3, on consideration, I find that the requested information includes confidential information which is held in a fiduciary capacity and the disclosure of such information would harm the competitive position of the entity. 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 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.*" Further, the Hon'ble CIC in matter of *Sbri 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. I, therefore, find that such information which is confidential in nature, given under regulatory

process and which contains information given/received in 'fiduciary relationship', the disclosure of which would harm the competitive position of the entity 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.

7. With regard to query nos. 7 and 8, I note that first part of the said queries are in the nature of seeking clarification/confirmation from the respondent. It is understood that the respondent is not supposed to create information; or to interpret information; or to furnish clarification/confirmation to the appellant under the ambit of the RTI Act. I find that the appellant's queries cannot be construed as seeking 'information' as defined under section 2(f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification under the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon'ble CIC observed that *"7. The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant are in the nature of seeking explanation/ opinion/ advice/ confirmation/ clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/ opinions/ advices can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him"*. However, I note that the second part of the query nos. 7 and 8 are not in the nature of seeking clarification and therefore, I find that the same warrants reconsideration.
8. Considering the above observations, I remit the application to the respondent for *de novo* consideration of second part of query nos. 7 and 8 in 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: April 29, 2025

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