

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

Appeal No. 5778 of 2023

Santosh S Khabiya	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated July 25, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 18, 2023 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00182) dated August 19, 2023. 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. **Queries in the application** –The appellant, vide his application July 25, 2023, sought the following information:

“As far as Investor is concern since long this has been found that in Yaari Digital Integrated Services Ltd Script there is huge manipulation found were I have chase with company management as well both exchanges but till time Daily systematically down trend Price mover manipulator not found by company and exchanges. As per Right to information act 2005 I have seeking the information who are the culprits Involves on the daily price manipulation since around Rs.700 to around Rs.10. This is crystal clear that this was not done by any small Investor who are Invested there hard money on higher level buying. Every Investor already lost their hard earned money. I hereby request you to deeply investigate and confirm the Names of culprits who are daily enjoying on Investors’ money. Also arrange to recover amount from culprits and pay to concern Investors who are already in Losses or already book the losses. Otherwise arrange to stop trading and delist the script permanently instead on given daily doses of Poison.”

3. The respondent, in response to the application, informed that SEBI receives complaints/ market intelligence from various entities/persons for activities in the stock market. The respondent also informed that SEBI examines such complaints and thereafter, based on facts and /or circumstances of

the case may take punitive measures or may amend regulations. Further, the respondent stated that SEBI conducts examinations and investigations confidentially and that SEBI will neither confirm nor deny the existence of any investigation. Respondent also informed that any regulatory actions taken by SEBI are published on the SEBI website.

4. **Ground of appeal-** The appellant has not mentioned any specific ground for filing the appeal. The appellant, in his appeal, *inter alia*, stated that he had no objection with the response. However, the appellant requested to investigate the alleged scam at the earliest.
5. I have perused the application and the response provided thereto. I note that the appellant, in his application, *inter alia*, requested to investigate and confirm the names of the culprits with respect to the allegations made therein. I note that the respondent has neither confirmed nor denied existence of examination or investigation and the same is justified where disclosure of existence of investigation or otherwise would itself amount to disclosure of exempted information. 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 examination/ investigation is important since reports of the same may result in unwarranted speculation or concern in the market or may affect evidence collection during the examination/investigation or may result in unnecessary harm to third parties. Further, I note that information regarding any regulatory action taken by SEBI/penalty imposed against entities, would be available on the website of SEBI. The said rationale for neither confirming nor denying existence of any examination/ investigation was relied upon by SEBI before the Hon'ble CIC in *Arun Damodar Sawant vs CPIO, SEBI* (order dated September 26, 2018 in Appeal No. CIC/SEBIH/A/2017/ 137139/BJ). The Hon'ble CIC, in the said matter, accepted the submissions and refused to intervene in the response of the CPIO. Similar observations were also made by the Hon'ble CIC, in the matter of *Anju Sharma vs. CPIO, SEBI* (order dated September 28, 2020). In view of these observations, I find that the application has been adequately addressed and no further interference of this forum is warranted at this stage.
6. Further, I note that the appellant, in his appeal, requested to investigate the alleged scam at the earliest. In my opinion, the appellant cannot expect the respondent to take certain action under the RTI Act. In this regard, the Hon'ble CIC, in the matter of *Mohan Kumar Sharma vs. CPIO, Prime Minister's Office* (order dated November 26, 2019), held that "7. In view of the above, the Commission observes that under the RTI Act the CPIO provides information available with him or held by him. Thus, the appellant cannot expect the respondent to take

certain action or initiate action as desired by him.” In view of these observations, I find that the request made by the appellant in the appeal, does not warrant consideration under the RTI Act.

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: September 11, 2023

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