

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

Appeal No. 5163 of 2022

Rakesh Tirath : Appellant

Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated June 05, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated June 28, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated July 01, 2022. 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 access to the requested information was refused. On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent with respect to query numbers 2, 3, 4 and 5. In view of the submissions made by the appellant in his appeal, I am only dealing with the said queries and the response provided thereto, in this order.
3. **Query number 2-** The appellant, vide query number 2 of his application dated June 05, 2022, *inter alia*, sought the names and designation of SEBI officials who carried out the inspections of Stock Broker Modex International Securities.
4. The respondent, in response to the aforesaid query, informed that the requested information is exempt from disclosure under sections 8(1)(g) and 8(1)(j) of the RTI Act as the same relates to personal information, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individual. The respondent also informed that requested information does not pertain to the appellant and disclosure of the same may also endanger the life or physical safety of the persons. The appellant, in his appeal, *inter alia*, submitted that the inspection was carried out by SEBI in their official capacity and not in their personal capacity. Further, the appellant submitted that there is larger public interest involved in the matter.

5. I have perused the query and the response provided thereto. As regards the non-disclosure of information relating to SEBI officials, I find that a similar issue was settled in *H. E. Rajashekarappa vs. State Public Information Officer and Ors.* (Order dated July 01, 2008), wherein the Hon'ble High Court of Karnataka had ruled that: "... it cannot be said that section 2(f) of the Act (the RTI Act encompasses the personal information of the officials of the public authority). The intention of the legislation is to provide right to information to a citizen pertaining to public affairs of the public authority". Further, in the matter of *Mr. Lav Saksena vs. CPIO, Dy. DIT (Vigilance)* (order dated November 26, 2019), the Hon'ble CIC, *inter alia*, observed that all such information relating to the name and designation of officers could be severed to provide the remaining information. In view of these observations, I do not find any deficiency in the response.
6. **Query numbers 3, 4 and 5-** The appellant, vide query numbers 3 and 4, *inter alia*, sought reason and scope of each of the inspections conducted with respect to Modex International Securities. The appellant, vide query number 5, sought the detailed report of the inspection so carried out by SEBI
7. The respondent, in response to query numbers 3 and 4, informed that the information sought by the appellant is exempt under section 8(1)(a) of the RTI Act as the same pertains to the internal functioning of SEBI and relates to the systems and procedures followed at SEBI. Further, the said information is strategic in nature disclosure of which may hamper the decision making by SEBI in its supervisory and regulatory role. The respondent, in response to query number 5, informed that the requested information is exempt from disclosure under section 8(1)(a) of the RTI Act as the same is strategic in nature, disclosure of which may hamper the decision making by SEBI in its supervisory and regulatory role. Further, the respondent informed that disclosure may also affect and compromise the interest of securities market and may impact the economic interest of the country. The appellant, in his appeal, *inter alia*, submitted that the disclosure does not hamper the decision making of SEBI. The appellant also submitted that the reply to the application is covered by the provisions of section 8(2) of the RTI Act.
8. I have perused the aforesaid queries and the response provided by the respondent. I note that the disclosure of the requested information has been denied under section 8(1)(a) of the RTI Act. In this context, reference is made to the matter of *Ashok Kumar Jian vs. CPIO, SEBI* (order dated May 22, 2020), where in similar information was sought by an appellant and the respondent had submitted that "*It was further submitted that the inquiry and inspection was one of the tools available with SEBI (along with erstwhile FMC) to prevent or take action for any fraud or prevention of any unfair trade practices. Information received from various sources, if revealed, could give an inkling to the strategic issues involved in the matter and may even forewarn the violators and enable them to look for ways and means to protect themselves against SEBI's efforts to prevent fraud, etc. The disclosure of such strategic and confidential information may*

also affect and compromise interest of the securities market in specific and may affect the economic interest of the country. Further, there was no larger public interest involved in the disclosure of the said information. In view of the above, exemption was sought in terms of Section 8(1)(a), 8(1)(d), 8(1)(e) of the RTI Act, 2005.” I note that in the said matter, the Hon’ble CIC held that no further intervention of the Commission was required. In view of these observations, I agree with the response of the respondent that the requested information pertains to the internal functioning of SEBI and relates to the systems and procedures followed at SEBI. Further, the said information is strategic in nature disclosure of which may hamper the decision making by SEBI in its supervisory and regulatory role. Hence the same is exempt from disclosure under Section 8(1)(a) of the RTI Act. Further, I note that when SEBI conducts inspection, the resultant inspection report along with the information collected/exchanged during the course of such inspection, may contain commercial information of the concerned entity which is confidential in nature. The information collected/ exchanged is held in fiduciary capacity. Whenever such inspection is conducted by SEBI against any such entity, upon its completion, the inspecting authority submits an inspection report along with the related papers, to the competent authority, which contains the tentative findings about the conduct of the inspected entity. There is a subsequent process to determine the validity of such findings. Accordingly, depending on the nature of business of the inspected entity and the purpose of inspection, the inspection report along with the information collected/exchanged during the course of such inspection, may contain details of such entity, which are in the nature of commercial confidence. Accordingly, I find that the information regarding inspection report is also exempt under sections 8(1)(d) and 8(1)(e) of the RTI Act. Further, the appellant has not established existence of larger public interest in the matter. Accordingly, no further intervention is warranted at this stage.

9. 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: July 28, 2022

A SUNIL KUMAR
APPELLATE AUTHORITY UNDER THE RTI ACT
SECURITIES AND EXCHANGE BOARD OF INDIA