

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

Appeal No. 5483 of 2022

Deepak Gandhi	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated October 17, 2022 (received by SEBI on October 17, 2022) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 28, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated November 04, 2022 (received by the Office of Appellate Authority on November 07, 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. **Ground of appeal-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. In view of the submissions made by the appellant in his appeal, I am dealing with the queries and the response provided thereto, in the following paragraphs.
3. **Query number 1, 2 and 4-** The appellant, vide query numbers 1, 2 and 4, sought the following information with respect to the orders dated November 21, 2014 and March 31, 2022 passed by SEBI-

- 1. Names and addresses of 38 Limited Partners of India Star Fund LP (as mentioned in para 7B(v) in 1st WTM Order on page 11 and also mentioned in para 10(a) in 2nd WTM order on Page 21).*
- 2. The amount of money contributed by each of 38 limited partners, General Partner and Sole General Partner in India Star Fund LP (as mentioned in paras 7(B)(v) and para 9(a) of the WTM Order dated 21.11.2014 (1st WTM Order) on pages 11, 15 and 16).*
- 4. In para 11 on page 26 of 2nd WTM Order dated 31.03.2022, it is mentioned that:
".....I note that as per the information provided by Hongkong Shanghai Banking Corporation (HSBC), the Acquirer, IndiaSTAR (Mauritius) Limited had an FDI account (NSDL Client ID 10587123) which was opened on June 15, 2006...."*

While the 1st preferential allotment to India Star Mauritius Ltd., was done on 21.03.2006 as per LOF dated 12.03.2008 (para 3(m) on page 15 of LOF https://www.sebi.gov.in/sebi_data/commondocs/garwarefinal_p.pdf)

Please inform the details of the FDI Account and /or FII Account of the Acquirer, IndiaSTAR (Mauritius) Ltd., with the name of the Bank situated in India that was used for 1st preferential allotment of equity shares

4. The respondent, in response to the aforesaid queries, informed that the information sought is not available with SEBI.
5. The appellant, in his appeal, *inter alia*, submitted that the registration is mandatory as per the provisions of the SEBI Act, 1992 and Regulations framed thereunder. The appellant also alleged that SEBI ought to know the details of the funds invested and mobilised.
6. I have perused the queries and the response provided thereto. I note that the appellant has sought information pertaining to 38 Limited Partners of India Star Fund LP along with details of the FDI Account and /or FII Account of India Star Fund LP. I note that the respondent has categorically informed regarding non-availability of the requested information. In my view, the respondent is expected to provide information as available on record and not create any information. Further, I do not have any reason to disbelieve the response provided by the respondent. In this context, I note that the Hon'ble Supreme Court of India in the matter of *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011), *inter alia*, held: "*The RTI Act provides access to all information that is available and existing. ...But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant.*" Further, I note that the Hon'ble CIC in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: "... *if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given.*" Further, I note that detailed orders passed in the referred matter are available on the SEBI website, which is in the public domain. In view of these observations, I do not find any deficiency in the response.
7. **Query number 3 and 5-** The appellant, vide query number 3 and 5, sought the following information-

3. It is mentioned that India Star Fund LP, its 100% Mauritius based subsidiary India Star Mauritius Ltd and Sycamore Management Corporation, USA as well as India Star Partners LP have not taken Registration under SEBI Regulations, 1995 and/or SEBI Regulations, 2014. Inform that the action taken by SEBI in this respect and inform the date on which SEBI has communicated with them in this regards.

5. Please provide the copies of correspondence with the parties mentioned in para 3 above, upon payment of statutory charges.

8. The respondent, in response to query number 3, informed that the entities mentioned in query 3 of RTI application are/were not registered with SEBI in the capacity of Foreign Institutional Investors/Foreign Portfolio Investors/sub Accounts under SEBI (Foreign Institutional Investors) Regulations, 1995/SEBI (Foreign Portfolio Investors) Regulations, 2019. Further, the respondent informed that actions taken by SEBI, if any, against entities are available on the SEBI website which is in public domain. The respondent also provided the link for accessing the same. In response to query number 5, the respondent informed that the same is not applicable in view of reply to query number 3. The appellant, in his appeal, *inter alia*, submitted that the respondent has not given appropriate reply and no information is given under the RTI Act.
9. I have perused the queries and the response provided thereto. I note that the information about any enforcement or regulatory action taken/ penalty imposed by SEBI is available on the SEBI website under the head “Enforcement”, which is in the public domain. Further, the respondent has also informed regarding the said entities not being registered with SEBI in the capacity of Foreign Institutional Investors/Foreign Portfolio Investors/sub Accounts under SEBI (Foreign Institutional Investors) Regulations, 1995/SEBI (Foreign Portfolio Investors) Regulations, 2019. On consideration, I find that the respondent has adequately addressed the queries by providing the information available with him. Accordingly, no further intervention is warranted at this stage.
10. 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 05, 2022

ANAND BAIWAR

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