

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

Appeal No. 5411 of 2022

Manish Goel	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated August 11, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated September 07, 2022 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/22/00574) dated September 09, 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. **Queries in the application** –The appellant, vide his application dated August 11, 2022, sought the following information:
 1. *SEBI in CWP 1838 of 2022 submitted to Honourable Punjab & Haryana High Court one affidavit in which SEBI submitted these statements --- SEBI placed a consultation paper on 15.01.2020 on its website, seeking public comments, inter alia, on the proposal to curb the instances of charging unfair and unreasonable fees to the client by the Investment Advisors.... In response to the consultation paper, more than 2800 comments were received from various stakeholders. In this regard, please provide me details of all above 2800 comments received from public including name of sender, complete comments/ messages/ concerns of sender..... Affidavit of Sebi is being attached for your reference.*
 2. *Also provide internal records, minutes and file notings by the committee which studied above comments and approved the resultant circular number Sebi/HO/IMD/D F 1/CIR/P /2020 /182.*
3. The respondent, in response to query number 1, informed that the requested information is exempt under section 8(1)(a), 8(1)(d) and 8(1)(e) of the RTI Act as the same relates to an issue which is strictly for internal consumption of SEBI and is thus strictly confidential in nature. The respondent also submitted that the information is available to SEBI in fiduciary relationship and it pertains to policy

making decisions of SEBI and is strategic in nature, disclosure of which may hamper the decision making by SEBI in its supervisory and regulatory role. In response to the query 2, informed that the information sought by the appeal 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. In view of the same, the information sought by the appellant is exempt u/s 8(1)(a) of the RTI Act, 2005.

4. **Ground of appeal-** The appellant has filed the appeal on the ground that access to the requested information was refused. The appellant, in his appeal, *inter alia*, submitted that the respondent refused to provide the information based on frivolous reasons and that he needs the information for verifying the contents of the affidavit submitted by SEBI.
5. **Query number 1-** I have perused the query and the response provided thereto. I note that SEBI, being the regulator of securities market issues various circulars/ guidelines etc. for regulating activities in securities market. SEBI also revisits the prevailing procedures/ systems, *inter alia*, for improving the same or for dealing with emergent situations. In this process, SEBI may seek comments from the public and experts on issues under its consideration. Inputs received, deliberations conducted and identity of persons involved in the process of formulation of the circulars/guidelines are strategic and confidential in nature. Further, I note that any information relating to the formulation of such regulatory policy may also entail an evaluation of various views submitted by concerned/related market participants, stock exchanges, etc. which were intended to be confidential on account of the commercial/trade related aspect involved. I note that any breach of confidentiality through disclosure of such information, available in a fiduciary capacity with SEBI (*reliance placed on the Delhi High Court's Order dated November 30, 2009 in Writ Petition (Civil) Nos. 8396/2009, 16907/2006, 4788/2008, 9914/2009, 6085/2008, 7304/2007, 7930/2009 and 3607 of 2007*) and which may be contained in the aforementioned documents, may cause substantial harm to the competitive position of the concerned/related market participants, stock exchanges, etc. as well as affect the regulator's ability to obtain necessary inputs, etc. from such entities in future. Further, the Hon'ble CIC in matter of *Shri 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. In view of these observations, I agree with the response of the respondent that the requested information is exempt from disclosure under section 8(1)(a), 8(1)(d) and 8(1)(e) of the RTI Act. I also find that the requested information may contain

personal information related to third parties, the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individual. Hence, the same is also exempted from disclosure under Section 8(1)(j) of the RTI Act. Accordingly, no further intervention is warranted at this stage.

6. **Query number 2-** I have perused query number 2 and the response provided thereto. I note that the respondent, in his response, *inter alia*, declined the information relating to Circular No. *SEBI/HO/IMD/D F 1/CIR/P /2020 /182* to the appellant, by invoking the provisions of section 8(1)(a) of the RTI Act. I note that the requested information pertaining to the said Circular may contain information of a strategic nature concerning regulatory policy formulation by SEBI in respect of the securities market and disclosure of which would result in revealing the mind of regulator. In addition to the same, I note that such documents may also include issues sensitive to the enforcement of regulatory policy and may therefore, have an impact on the regulation of concerned/related market participants, etc. In view of these observations, I agree with the response of the respondent that the requested information is exempt from disclosure under section 8(1)(a) of 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: October 07, 2022

A SUNIL KUMAR

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