

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

Appeal No. 5566 of 2023

Pratap Chandra Mohanty	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated December 09, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated January 03, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00010) dated January 10, 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. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. 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 a** –The appellant, vide query number a of his application, sought the copy of decision taken by SEBI for public display of property statement filed by all officers and staff of SEBI in public domain, as per the Lokpal and Lokayukta Act, 2013.
4. The respondent stated “Nil” with respect to the aforesaid information sought by the appellant. The appellant, in his appeal, queried how SEBI has not web hosted property statement of Public Servants yet.
5. I have perused the query and the response provide thereto. I note that the respondent has informed the appellant about non-availability of the requested information with SEBI. In this context, 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.*” In view of these observations, I do not find any deficiency in the response.

6. **Query numbers b, c and d-** The appellant, vide query number b, sought the name of the officers who have not filed their annual property statement and reasons thereof. Vide query number c, the appellant sought the last property statement filed by a retired SEBI officer. Vide query number d, the appellant sought information regarding monthly pension received by the retired SEBI officer.
7. The respondent, in response to the aforesaid queries, informed that the requested information is exempt from disclosure in terms of section 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. Further, the disclosure may also endanger the life or physical safety of the person(s). The appellant, in his appeal, *inter alia*, submitted that the requested information is not personal information as citizens have a right to know the information.
8. I have perused the queries and the response provided thereto. I note that the requested information has been denied by the respondent under section 8(1)(g) and 8(1)(j) of the RTI Act. In my opinion, the requested information pertains to personal information of third party. In this context, I note that similar issue was dealt in the matter of *Md. Muzibur Rahman vs. CPIO, South Eastern Coalfields Limited* (order dated June 13, 2019). In the said matter, the details of assets, wealth and income of an officer was sought and the CPIO had denied the same under Section 8(1)(j) of the RTI Act. The appellant, *inter alia*, had also contended that the information is required to be placed on the public authority's website. I note that the Hon'ble CIC, in the said matter, held that " 6. The Commission, after hearing the submissions of the respondent and perusing the records, observes that an appropriate response has been furnished to the appellant by the respondent as far as seeking the details of wealth and assets of Shri J.G. Singh, GM, SECL Dipka Area is concerned. The Commission further notes that in *Secretary General, Supreme Court of India Vs. Subhash Chandra Agarwal*: MANU/DE/0013/2010 : AIR 2010 Del 159, a full Bench of the Hon'ble Delhi High Court observed that the objective of freedom of information and objective of protecting personal privacy would often conflict when an applicant seeks access to personal information of a third party. The relevant extract of the said decision is reproduced below:-
115. The Act makes no distinction between an ordinary individual and a public servant or public official. As pointed out by the learned single Judge "---an individual's or citizen's fundamental rights, which include right to privacy - are not subsumed or extinguished if he accepts or holds public office." Section 8(1)(j) ensures that all information furnished to public authorities - including personal information [such as asset disclosures] are not given blanket access. When a member of the public requests personal information about a public servant, - such as asset declarations made by him - a distinction must be made between personal data inherent to the person and those that are not, and, therefore, affect his/ her private life. To quote the words of the learned single Judge "if public servants---are obliged to furnish asset declarations, the mere fact that they

have to furnish such declaration would not mean that it is part of public activity, or "interest". ---That the public servant has to make disclosures is a part of the system's endeavour to appraise itself of potential asset acquisitions which may have to be explained properly. However, such acquisitions can be made legitimately; no law bars public servants from acquiring properties or investing their income. The obligation to disclose these investments and assets is to check the propensity to abuse a public office, for a private gain." Such personal information regarding asset disclosures need not be made public, unless public interest considerations dictates it, under Section 8(1)(j). This safeguard is made in public interest in favour of all public officials and public servants." Further, in a subsequent judgment of the Hon'ble Supreme Court of India in the matter of *Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarmal* in Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010 (judgement dated November 13, 2019), it was held that: *"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive..."* In view of these observations, I agree with the response of the respondent. 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: February 09, 2023

ANAND BAIWAR

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