

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

Appeal No. 6125 of 2024

Shubham Kumar	:	Appellant
Vs		
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated August 10, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 22, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00189) dated August 24, 2024. 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 is incomplete, misleading or false information. The appellant, in his appeal, has raised dissatisfaction only with respect to the replies to request nos. 1, 2, 3, 6, 7, 8 and 10 of his application.
3. **Request nos. 1, 2 and 3 of the application** - The appellant, vide his request nos. 1, 2 and 3 of the application dated August 10, 2024 sought the following information:

*"1.. These all properties are attached/seized by SEBI or not? Is any direction/order issued by SEBI regarding this property's attachment with SEBI for public awareness.?
2. As on date these all properties are available with SEBI or not? Out of these, any properties have been sold out by Sahara or auctioned by SEBI? please prove all details.
3. Sahara can sell these properties or not? Are any guideline issues for selling of these properties? is any permission required from SEBI to sell these properties?"*
4. **Reply of the Respondent** - The respondent, in response to request no. 1 of the application, informed that the information sought is in the nature of seeking clarification/opinion. Hence it cannot be construed as information u/s 2(f) of the RTI Act, 2005. However, the respondent informed that SEBI vide orders dated 13.02.2023 attached the movable and immovable properties of Sahara India Real

Estate Corporation Limited. (SIRECL) and Sahara Housing Investment Corporation Limited (SHICL), Shri Subrata Roy Sahara and the directors viz. Ms Vandana Bhargava, Shri Ashok Roy Chaudhary and Shri R. S Dubey. The respondent also provided the relevant path to access the said order on SEBI website.

In response to request no. 2, the respondent informed the appellant regarding details of properties of Saharas sold by both SEBI and Sahraras.

In response to request no. 3, the respondent informed that the Hon'ble Supreme Court vide Order dated 11.07.2016 directed as below:

"we modify our order issued earlier and permit Saharas to sell the properties owned by them subject to the condition that such sales are not for a price less than 90% of the circle rates stipulated for the area in which the properties are situate. Needless to say, that the sale price so recovered by Saharas shall be deposited in entirety less expenses, TDS and all other applicable taxes in the SEBI Sahara Account..." The respondent also provided the path to access the relevant order on SEBI website.

5. I have perused the aforesaid requests and the response provided thereto. With respect to request nos. 1, 2 and 3, I find that the said requests are in the nature of seeking clarification/confirmation from the respondent. I find that the said request cannot be construed as seeking 'information' as defined under section 2(f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or confirmation under the RTI Act. In this context, reliance is placed on matter of *Shri Shantaram Walavalkar vs. CPIO, SEBI* (Decision dated January 17, 2013), wherein the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**") held: *"... we would also like to observe that, under the Right to Information (RTI) Act, the citizen has the responsibility to specify the exact information he wants; he is not supposed to seek any opinion or comments or clarifications or interpretations from the CPIO..."*. Accordingly, I do not find any deficiency in the response.
6. Notwithstanding the above, with respect to request no. 1, I note that the respondent has informed the appellant that SEBI vide orders dated 13.02.2023 attached the movable and immovable properties of Sahara India Real Estate Corporation Limited. (SIRECL) and Sahara Housing Investment Corporation Limited (SHICL), Shri Subrata Roy Sahara and the directors viz. Ms Vandana Bhargava, Shri Ashok Roy Chaudhary and Shri R. S Dubey. Further, with respect to request no. 2, the respondent has provided the information available with him regarding the details of properties sold of Saharas, both by SEBI and by Saharas. Also, with respect the request no. 3, the respondent has provided information regarding the

relevant excerpt of Supreme Court order dated 11.07.2016 in the matter of Sahara group companies. The respondent has also provided the relevant path to access the said order on SEBI website.

7. **Request no. 6 of the application** - The appellant, vide his request no. 6 of the application dated August 10, 2024 sought the following information:

6. When was the last money deposited by Sahara in the Sahara SEBI escrow account?

8. **Reply of the Respondent** - The respondent, in response to request no. 6 of the of the application, informed that Saharas had deposited amount into SEBI Sahara Refund Account on various dates pursuant to Hon'ble Supreme Court Orders and thereby deposited an aggregate amount of Rs. 15,775.50 Crores as on 31.03.2024.

9. I have perused the request and the response provided thereto. I note that the appellant has sought information regarding when the money was last deposited by Sahara in the Sahara SEBI escrow account. However, the respondent has provided information regarding the aggregate amount deposited as on March 31, 2024. On consideration, I find that the response provided by the respondent does not appear to be adequate. In my view, the respondent was obliged to ascertain availability of the requested information with SEBI and whether the same may be provided to the appellant in accordance with the provisions of the RTI Act. Accordingly, I find that the said request has not been adequately addressed by the respondent and the same warrants reconsideration.

10. **Request no. 7 of the application** - The appellant, vide his request no. 7 and 8 of the application dated August 10, 2024 sought the following information:

"7. Properties Value shown is only for land or it includes Construction of buildings and others developments on the land?"

11. **Reply of the Respondent** - In response to request no. 7, the respondent informed that the information sought is in the nature of seeking of clarification/opinion. Hence, it cannot be construed as information u/s 2(f) of the RTI Act, 2005. Further the respondent informed that Saharas had prepared the said information/Annexure A.

12. I have perused the aforesaid requests and the response provided thereto. On consideration, I concur with the response of the respondent that the said request of the appellant is in the nature of seeking clarification/opinion from the respondent. It is understood that the respondent is not supposed to create information; or to interpret information; or to furnish clarification to the appellant under the ambit of

the RTI Act. I find that the said request cannot be construed as seeking 'information' as defined under section 2 (f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or opinion under the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon'ble CIC observed that "7. The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant are in the nature of seeking explanation/opinion/advice/confirmation/clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/opinions/advice can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him" Accordingly, I do not find any deficiency in the response.

13. **Request nos. 8 and 10 of the application** - The appellant, vide his request no. 10 of the application dated August 10, 2024 sought the following information:

"8. Kindly provide all land owners name of properties (Annexure -A) which is provided by Sabara.

10. Kindly provide a copy of valuation report of properties situated at Patna (SL No. 65) and Aamby Valley (SL No. 68, 69 and 70 of Annexure -A)."

14. **Reply of the Respondent** - The respondent, in response to request nos. 8 and 10, informed that the information sought is voluminous in nature and maintained in individual files, placed at multiple locations and collating the same for providing response to query of appellant would disproportionately divert the resources of the public authority in terms of section 7(9) of the RTI Act, 2005. Further, the respondent informed that the information lies in a fiduciary capacity with SEBI as certain details in documents are relating to specific party only, hence is exempt u/s 8(1)(e) of RTI Act, 2005.
15. I have perused the aforesaid requests and the response provided thereto I note that the requested information is not readily available with the respondent in the manner as sought by the appellant and that the respondent would be required to find and collate the information. In my opinion, such collation would disproportionately divert the resources of SEBI and would defeat 'the practical regime of right to information' as envisaged in the preamble of the RTI Act. In this context, I note that the Hon'ble CIC, in the matter of *Mr. Deepak Girdhar vs. CPIO, SEBI* (Order dated March 30, 2021), observed that "6. The Commission, after hearing the submissions of the respondent and after perusal of records, observes that the information

sought by the appellant is voluminous in nature and may not be readily available with the CPIO in the manner as sought by the appellant, collating and compiling of which would disproportionately divert the resources of the respondent organization. Hence, the disclosure of information is exempted as per Section 7(9) of the RTI Act.” In view of these observations, I do not find any deficiency in the response.

16. Further, I concur with the response of the respondent that the requested information is available to SEBI in fiduciary capacity. In the context of non-disclosure of information under Section 8(1)(e) of the RTI Act, 2005, the decision of the Hon'ble Supreme Court of India in *Institute of Chartered Accountants of India Vs. Shaunak H. Satya and Ors.*, in Civil Appeal NO. 7571 of 2011- dated 02/09/2011 is referred to, wherein it was held that: *"The use of the words "person" shows that the holder of the information in a fiduciary relationship need not only be a 'public authority' as the word 'person' is of much wider import than the word 'public authority'. Therefore the exemption under Section 8(1)(e) is available not only in regard to information that is held by a public authority (in this case the examining body) in a fiduciary capacity, but also to any information that is given or made available by a public authority to anyone else for being held in a fiduciary relationship. In other words, anything given and taken in confidence expecting confidentiality to be maintained will be information available to a person in fiduciary relationship"*. I, therefore, find that the requested information is also exempt from disclosure under section 8(1)(e) of the RTI Act.
17. Considering the above observations, I remit the application to the respondent for *de novo* consideration of request no. 6 of the application and sending appropriate response to the appellant in terms of RTI Act, within 15 working days from the date of receipt of this order.
18. The Appeal is accordingly disposed of.

Place: Mumbai

Date: September 20, 2024

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