

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

Appeal No. 5498 of 2022

Kusum Gupta	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 22, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 18, 2022 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/22/00647) dated November 21, 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 to query numbers 1, 3 and 4 since he has specifically submitted that the decision of the respondent in seeking exemption under section 8(1)(g), 8(1)(j) and 8(1)(e), is malafide and not supported by reasoning. In view of the submissions made by the appellant, I am only dealing with said queries and the response provided thereto, in the following paragraphs.
3. **Query numbers 1 and 3-** The appellant, vide query number 1, *inter alia*, sought two certified hard copies of information from records pertaining to the letter dated April 27, 2022 issued by an officer of SEBI, pertaining to the subject - Clarification required on non-compliances and irregularities while conducting Investor Awareness Programs. Vide query number 3, the appellant sought two certified copies of the letter/notice issued to CIEL Learning Foundation, Mumbai by SEBI during Feb-April, 2022, pertaining to the IAPs conducted (during October 2021 to January 2022).
4. The respondent, in response to the aforesaid queries, 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 does not pertain to the appellant. Further, the said information relates to personal information of Securities Market Trainers

(SMARTs), the disclosure of which has no relationship to any public activity or interest and may cause unwarranted invasion into the privacy of the individual and may also endanger the life or physical safety of the persons.

5. I have perused the queries and the response provided thereto. I note that the respondent denied disclosure of the requested information in terms of Section 8(1)(g) and 8(1)(j) of the RTI Act as the same pertains to third parties. I do not find any reason to disbelieve the response provided by the respondent. In this context, reference is made to the judgment of the Hon'ble Supreme Court of India in the matter of *Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal* in Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010 wherein the import of "personal information" envisaged under Section 8(1)(j) of RTI Act has been exemplified in the context of earlier ratios laid down by the same Court in other matter(s). The Hon'ble Supreme Court 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 am of the opinion that the requested information relates to personal information of 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 and may also endanger the life or physical safety of the person(s). Accordingly, I do not find any deficiency in the response.
6. **Query number 4-** The appellant, vide query number 4, *inter alia*, sought certified copies of information from record pertaining to the reply/response (by email/ letter/oral communication/video recording/ etc.) received from CIEL Learning Foundation, Mumbai against the letter/notice issued to CIEL Learning Foundation (A Recognized Organization SMARTs) by SEBI.
7. The respondent, in response to the aforesaid query, informed that the information sought is exempt from disclosure under section 8(1)(e) of the RTI Act as the same is available with SEBI in fiduciary capacity and there is no larger public interest involved in disclosure of the said information.

8. I have perused the aforesaid query and the response provided thereto. I note that the requested information is available to SEBI in fiduciary capacity. In this context, I note that the Hon'ble High Court of Delhi, in Writ Petition (Civil) Nos. 8396/2009, 16907/2006, 4788/2008, 9914/2009, 6085/2008, 7304/2007, 7930/2009 and 3607 of 2007, (order dated November 30, 2009) held that the 'person' referred to in section 8(1) (e) of the RTI Act will include a public authority. It also held that: *"In a fiduciary relationship, the principal emphasis is on trust, and reliance, the fiduciary's superior power and corresponding dependence of the beneficiary on the fiduciary. It requires a dominant position, integrity and responsibility of the fiduciary to act in good faith and for the benefit of and to protect the beneficiary and not oneself"*. Further, I note that the Hon'ble CIC, in the matter of *Manish Goel vs. CPIO, SEBI* (order dated November 15, 2022), accepted the submission of SEBI that the requested information with respect to Inspection Advisers and Research Analysts was available to SEBI in fiduciary capacity and includes commercial confidential information. Further, in the said matter, the Hon'ble CIC disposed of the appeal with the observation that there was no ground to admit the second appeal. I find that SEBI, being the regulatory authority for the securities market, gets various references/documents from market participants and intermediaries and the information contained therein are received in fiduciary capacity. I, therefore, find that the requested information is exempt from disclosure under section 8(1)(e) of the RTI Act. Further, I note that the appellant has not established that the information is sought in larger public interest. Accordingly, I do not find any deficiency in the response.
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: December 16, 2022

ANAND BAIWAR

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