

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

Appeal No. 5176 of 2022

Aditya Kalra	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 27, 2022 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 06, 2022, responded to the application filed by the appellant. The appellant filed an appeal dated July 13, 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 June 27, 2022, sought the following information:

“Provide emails exchanged between SEBI and Invesco Asset Management in last four months in relation to their whistleblower complaint.”
3. The respondent, in response to the aforesaid query, informed that the requested information is exempt under section 8(1)(e) of the RTI Act as the same is available to SEBI in a fiduciary relationship with the parties to the aforesaid proceedings and there is no larger public interest involved in disclosure of the said information.
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 there is no fiduciary relation between SEBI and a third party. The appellant also submitted that the public has a right to know about the arguments made by the party.
5. I have perused the query and the response provided thereto. I have no reason to disbelieve the respondent’s response that the same is available to SEBI in fiduciary capacity. In this context, I note that in Writ Petition (Civil) Nos. 8396/2009, 16907/2006, 4788/2008, 9914/2009, 6085/2008, 7304/2007,

7930/2009 and 3607 of 2007, the Hon'ble High Court of Delhi (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"*. I find that SEBI, being the regulatory authority for the securities market, gets various references/documents from market participants and the information contained therein are received in 'fiduciary relationship'. Further, in the matter of *Arun Damodar Sawant vs. CPIO, SEBI* (order dated September 26, 2018), the appellant had sought information regarding the action taken/initiated by SEBI with regard to the complaints filed by an individual on insider trading instances, violation of Corporate Governance Norms etc. along with the status and copies of the orders and other issues related thereto. The requested information was denied under Section 8(1)(e) and 8(1)(d) of the RTI Act. In the said matter the Hon'ble CIC had accepted the submission of SEBI regarding existence of fiduciary relationship between SEBI and third party. 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.

6. 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: August 05, 2022

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