

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

Appeal No. 5784 of 2023

Faisal Rashid	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated August 07, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated August 21, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00188) dated August 25, 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 access to the requested information was refused. On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent with respect to query numbers (a) and (b) of the application. In view of the submissions made by the appellant, I am only dealing with the said queries in this order.
3. **Query numbers (a) and (b)** –The appellant, vide query numbers (a) and (b), sought the following information with respect to his complaints dated April 17, 2023 and May 10, 2023 filed against IDBI Trusteeship Services Ltd. and Vistra ITCL (India) Ltd.:

“(a) Kindly furnish complete details of the above complaint, enquiry, investigation and order and copy of complete file thereof.

(b) Kindly furnish true copy of entire file and complete documents, complaint along with all annexures to the complaint and all documents submitted by the complainant and the defendants ITSL and VIL, statements of the defendants and complainant along with all annexures thereto and documents submitted by all the parties, notes, remarks, applications, notice, noting to close, closure reports, orders, approvals and permissions, legal documents, pertaining to the said complaint, enquiry and investigation. Kindly furnish true copy of all correspondence, letters exchanged between your SEBI department and the

complainant and defendants etc. in the above matter, along with inspection of the aforesaid entire file/documents pertaining to the said complaint, enquiry and investigation.”

4. The respondent, vide letter dated August 21, 2023, informed that the response to the queries have already been provided vide letter No. CPIO/KS/563/2023-24/32731/1 dated August 11, 2023. Further, the respondent, vide letter dated August 11, 2023, responded to identical queries raised by the appellant and informed that SEBI conducts examination and investigations based on the references and alerts received by it and that any investigation is conducted confidentially as they are sensitive in nature. Further, the respondent stated that SEBI will neither confirm nor deny the existence of any examination/investigation. Additionally, the respondent informed that any regulatory actions taken by SEBI are published on the SEBI website. Respondent also provided weblink/path to access the information regarding various orders passed by SEBI/ prosecution proceedings/ Recovery proceedings and Media-Press releases. With regard to the copies of the complaint and correspondences with complainant and defendants, the respondent informed same exempt from disclosure under section 8(1)(d) and 8(1)(e) of the RTI Act as the same is available to SEBI in fiduciary capacity and includes commercial confidential information, the disclosure of which could harm the competitive position of the entities. Further, the respondent informed that the file notings, procedures and other internal documents are exempt from disclosure under section 8(1)(a) of the RTI Act as the same are confidential in nature and are internal to the organization. Further, the said information is strategic in nature, disclosure of which may hamper the decision-making by SEBI in their supervisory and regulatory role. The appellant also mentioned that disclosure of such strategic and confidential information may also affect and compromise the interest of the securities market in specific and may impact the economic interests of the country.
5. I have perused the application and the response provided thereto. At the outset, I note that the appellant, along with his application, has uploaded copy of a letter dated June 02, 2023 forwarded by SEBI, vide which his complaints were treated as closed. I also note that SEBI, in the said letter, has categorically mentioned the reasons for closing the complaint filed against IDBI Trusteeship Services Ltd. and forwarding the same to MCA for further action. I also note that the said letter discloses the reasons for closing the complaint filed against Vistra ITCL (India) Ltd.
6. Further, I note that the appellant has sought the copy of his own documents i.e. complaint and annexures/ documents submitted by him. In my opinion, the appellant is not entitled to seek the copy of his own document as a matter of right under the RTI Act. In this context, the Hon'ble Madras High

Court in the matter of *PIO, Registrar, High Court, Madras vs. Central Information Commissioner* (Order dated September 17, 2014 passed in W.P. No. 26781 of 2013) held that *“we fail to understand as to how the second respondent is entitled to justify his claim for seeking the copies of his own complaints and appeals. admittedly, they are the documents of the second respondent himself, and therefore, if he does not have copies of the same, he has to blame himself and he cannot seek those details as a matter of right, thinking that the High Court will preserve his frivolous applications as treasures/valuable assets. Further, those documents cannot be brought under the definition “information” as defined under Section 2(f) of the RTI Act. Therefore, we reject the contention of the second respondent in this aspect.”* The said order was referred to by the Hon’ble CIC in the matter of *K N Rajasekar vs. CPIO, Department of Official Language, Chennai* (Order dated August 31, 2019) while observing that *“The Commission further observes that the appellant vide point no. 3 of the RTI application is seeking a copy of his own documents submitted by him at the time of his appointment in the Hindi Teaching Scheme (HTS), Chennai Office, which he is not entitled to seek as a matter of right under the RTI Act..... In view of the above ratio, information sought cannot be provided to the appellant.”* In view of these observations, I find that the requested information cannot be provided to the appellant.

7. With respect to the query seeking copy of correspondences with defendants, I note that the respondent denied the information on the ground that the same were exempt from disclosure under section 8(1)(d) and 8(1)(e) of the RTI Act. I do not find any reason to disbelieve the observation of the respondent that the requested information may contain information which is available to SEBI in fiduciary capacity and include confidential information which is commercial in nature. 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, held that the ‘person’ referred to in section 8(1) (e) of the RTI Act will include a public authority. It was 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, the Hon’ble CIC, in the matter of *Mr. Ashok Kumar Rajak vs. CPIO, SEBI*, (order dated December 21, 2021), held that *“Further the details such as investigation report, file noting, directions and various communication involves with the third party information which is received from other agencies is being held by them in fiduciary capacity hence the same is barred from disclosure under section 8(1)(e) & (j) of the RTI Act, 2005.”* In view of these observations, I do not find any deficiency in the response.
8. With respect to the query seeking file notings, procedures and other internal documents, I agree with the response of the respondent that requested information pertains to internal functioning of SEBI and the

same is strategic in nature. In view of the same, the requested information will fall within the exemption offered under section 8(1)(a) of the RTI Act.

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: September 15, 2023

ANAND BAIWAR

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