

**BEFORE THE APPELLATE AUTHORITY**  
**(Under the Right to Information Act, 2005)**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**Appeal No. 1021 of 2010**

Gyaneshwar Narayan	:	Appellant
	Vs.	
CPIO, SEBI, Mumbai	:	Respondent

**ORDER**

1. The appellant had filed an application dated August 25, 2010 under the Right to Information Act, 2005 (RTI Act). The respondent, vide letter dated September 29, 2010, responded to the appellant. Aggrieved by the response with respect to item (d), (f) and (g) of the respondent, the appellant has filed this appeal dated nil (received on November 08, 2010).

2. I have carefully examined the application, the response and the appeal and find that the matter can be decided on merit based on the material available on record.

3. **Item (d):** The appellant had asked whether any legal opinion was sought in a matter (referred to by him in his application) from Mr. C. Achuthan or from any other legal expert and sought a copy of the same if sought and received. The respondent stated that the legal opinion was sought from senior counsel. However, the respondent declined a copy of the legal opinion under section 8(1)(e) of the RTI Act stating that the same is privileged information and obtained in the capacity of fiduciary relationship. The appellant has argued that by simply stating that legal opinion is privileged information, protection is not available under section 8(1)(e) of the RTI Act. This argument is not tenable as it is well settled by the Hon'ble CIC in the matters of Maj. J.S. Kohli (Retd.) Vs. Telecom Regulatory Authority of India (Appeal No. 41/ICPB/2006 – Order dated June 30, 2006) and Shri Pavan Sachdeva Vs. CBI (Appeal No. CIC/WB/A/2009/000495 – Order dated July 23, 2010) that the legal opinion is a privileged document which automatically creating a fiduciary relationship between the client and the advocate and is exempt from disclosure under section 8(1)(e) of the RTI Act.

4. **Item (f):** The appellant had asked whether any Board member made any disclosure/disclaimer about potential conflict of interest in participation in the discussion on an order passed by a committee of members and sought a copy of the same if available. The respondent stated that one of the members mentioned about an issue of potential conflict of

interest in Board meeting held on February 02, 2010. However, it denied a copy of the minutes pertaining to the information under section 8(1)(d) of the RTI Act stating that the same can affect the commercial confidence of a third party. The appellant has argued that non-disclosure of the information to this item is not covered as claimed by the respondent under section 8(1)(d) of the RTI Act. However, the appellant has neither substantiated his argument nor made specific grounds in his appeal for the consideration of this Appellate Authority. Nevertheless, I find that instead of providing the entire text of minutes or copy of the minutes itself, the respondent provided the relevant information, that is, one member mentioned about an issue of potential conflict of interest in Board in the meeting. This is equivalent to providing information after severing the confidential information as envisaged under section 10 of the RTI Act. I do not find any reason to direct the respondent to provide the appellant with the entire text of the minutes or a copy of minutes itself as the entire minutes contain different agenda items and the same may include the details of other persons (third parties) and variety of discussions on different issues, policies, planning etc. and disclosure of which will be unwarranted. I, therefore, find that the response of the respondent is adequate.

5. **Item (g):** The appellant had sought a copy of the minutes of the Board meeting in which the issue of the report of the committee was discussed. The respondent stated that the two member committee report was discussed in meetings of the SEBI Board. It also stated that some of the minutes of the meetings contain reference of the names of the members and their personal views on the issues and disclosure of such information may endanger the life or physical safety of such person and is exempt under section 8(1)(g) of the RTI Act. The respondent further stated that the minutes of other meetings (relevant to information sought by the appellant) after applying the severability clause are enclosed. It is not clear from the response as to which are ‘the minutes of other meetings’ provided to the appellant. It is also not clear as to whether the respondent has provided copy of the minutes as sought by the appellant after applying the severability clause. I, therefore, direct the respondent to reconsider the response and provide clear and specific response to the appellant, in accordance with the RTI Act, within 15 days from the receipt of this order.

6. The appeal is accordingly disposed of.

**Place: Mumbai**  
**Date: December 8, 2010**

**PRASHANT SARAN**  
**APPELLATE AUTHORITY**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**