

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

Appeal No. 6585 of 2025

Nitin : Appellant
Vs

CPIO, SEBI, Mumbai : Respondent

ORDER

1. The appellant had filed an application dated August 24, 2025 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated September 22, 2025, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/25/00268) dated October 05, 2025. 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, in his application dated August 24, 2025, sought the following information:

“I, Nitin Deshmukh, seek information under the Right to Information Act 2005 regarding my whistle blower complaint made to SEBI against officials of the National Stock Exchange (NSE). Scenario for context: I reported irregularities including the joint purchase of a flat worth about Rs 1.50 crore by two NSE employees who were promoted twice in three years and also received a 30 percent hike during Covid 19 without promotion. Other employees received only 5 to 8 percent hike. I also highlighted wastage of funds and unnecessary purchases. My complaint was dismissed by the designated investigating officer of NSE Mr Vasudev Rao by manipulating the data. During SEBI inspection for the quarter October to December 2022 my allegations and data were cross verified with me by the inspection team. Soon after this observation I was transferred to another department in apparent retaliation and subsequently forced to resign after being detained for 8 hours in a meeting room by NSE KMPs. Despite repeated emails and reminders to SEBI officials including Nitesh Bhandari nitesbbb@sebi.gov.in, Bodagala Swetha bodagalas@sebi.gov.in, Richa Agarwal richag@sebi.gov.in and Lamber Singh lambers@sebi.gov.in, no information has been provided regarding the action taken. Information requested:

1. Action taken by SEBI against Mr Vasudev Rao for manipulation of data in the said whistle blower matter.

2. Whether SEBI has conducted any inspection review or inquiry into my harassment through retaliatory transfer and subsequent forced resignation.

3. Reasons for transferring the case to NCL when it was originally with the NSE Audit Committee.

4. Copies of inspection notes, observations, or correspondence between SEBI and NSE regarding my complaint.

5. Copies of any internal guidelines policies or circulars under SEBI norms regarding review and oversight of whistle blower complaints and protection of whistle blowers.

6. Rules and regulations under SEBI norms regarding data retention and access logs that NSE must follow.

7. Whether SEBI received a response from NSE on my allegation of being detained in a room by multiple KMPs. If yes please provide a copy."

3. **Reply of the Respondent** –The respondent, in response to query no.1 in the application, informed that SEBI conducts various examinations based on various references and alerts received by it which is confidential in nature. In addition, references received by SEBI are in fiduciary relationship. Further, the information sought relates to personal information, the disclosure of which would cause unwarranted invasion into the privacy of the individual and no larger public interest would justify the disclosure of such information. Therefore, the information sought is exempt u/s 8(1)(e) & 8(1)(j) of RTI Act.

The respondent, also informed that any such examination is conducted by SEBI confidentially, as the same is sensitive in nature. Thus, SEBI will not be able to confirm / deny the existence or otherwise of any examination and its outcome in the matter for which information has been sought. However, pursuant to examination, if any regulatory action is taken by SEBI, the same would be available in the public domain, on the SEBI website. The respondent also advised appellant to refer to SEBI website for updated information from time to time.

The respondent, in response to query nos. 2, 3 and 7 informed that the queries are in the nature of seeking clarification. Accordingly, the same cannot be construed as "information", as defined u/s 2(f) of the RTI Act.

The respondent, in response to query no. 4, informed that the information sought is confidential in nature, which may disclose the mind of the regulator and affect the strategic decision making of the regulator as a whole. Disclosure of such information would affect and compromise the interest of the securities market

in specific, and may impact the economic interests of the country. Further, the such information, which is strategic and confidential, is with SEBI in fiduciary relationship and disclosure of such information does not serve any larger public interest. Therefore, disclosure of such information is exempt u/s 8(1)(a) & 8(1)(e) of RTI Act.

The respondent, in response to query nos. 5 and 6, informed that all applicable legal framework is available on the homepage of SEBI website.

4. **Ground of appeal** – The appellant has filed the appeal on the ground that he was provided incomplete, misleading or false information.
5. I have perused the application and the response provided thereto. With respect to query no. 1, I concur with the response of the respondent that SEBI conducts various examinations based on various references and alerts received by it which is confidential in nature and are received in fiduciary relationship. In the context of non-disclosure of information under Section 8(1)(e) of the RTI Act, 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: "... *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 also note that maintaining confidentiality of examination/ investigation is important since reports of the same may result in unwarranted speculation or concern in the market or may affect evidence collection during the examination/investigation or may result in unnecessary harm to third parties. Further, I note that information regarding any regulatory action taken by SEBI/penalty imposed against entities, would be available on the website of SEBI. The rationale for neither confirming nor denying existence of any examination/investigation was relied upon by SEBI before the Hon'ble Central Information Commission (hereinafter referred to as "**CIC**") in *Arun Damodar Sawant vs CPIO, SEBI* (order dated September 26, 2018 in Appeal No. CIC/SEBIH/A/2017/ 137139/BJ). The Hon'ble CIC, in the said matter, accepted the submissions and refused to intervene in the response of the CPIO. Similar observations were also made by the Hon'ble CIC, in the matter of *Anju Sharma vs. CPIO, SEBI* (order dated September 28, 2020). Further, I note that the requested information also contains personal information of third party. Accordingly, I find that the requested information is exempt under section 8(1)(e) & 8(1)(j) of RTI Act.

6. With respect to query nos. 2, 3 and 7, I find that the queries are in the nature of seeking clarification/confirmation from the respondent. I find that the said queries 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 the RTI Act. In this context, reliance is placed on 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 of the respondent.
7. With regard to query no. 4, I find that SEBI, being the regulatory authority for the securities market, gets various references/documents from various entities and the information contained therein are received in 'fiduciary relationship'. I also find that such reference/ documents received by SEBI or correspondences made by SEBI with other entities may contain information which is confidential in nature, disclosure of which may adversely impact the concerned entities. 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, in its order dated November 30, 2009, 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."* I, therefore, find that such received in 'fiduciary relationship' from other entities is exempted from disclosure under Section 8(1)(e) of the RTI Act. Further, reference is made to the matter of *Ashok*

Kumar Jain vs. CPIO, SEBI (order dated May 22, 2020), where in similar information was sought by an appellant and the respondent had submitted that “*It was further submitted that the inquiry and inspection was one of the tools available with SEBI (along with erstwhile FMC) to prevent or take action for any fraud or prevention of any unfair trade practices. Information received from various sources, if revealed, could give an inkling to the strategic issues involved in the matter and may even forewarn the violators and enable them to look for ways and means to protect themselves against SEBI's efforts to prevent fraud, etc. The disclosure of such strategic and confidential information may also affect and compromise interest of the securities market in specific and may affect the economic interest of the country. Further, there was no larger public interest involved in the disclosure of the said information. In view of the above, exemption was sought in terms of Section 8(1)(a), 8(1)(d), 8(1)(e) of the RTI Act, 2005.*” I note that in the said matter, the Hon’ble CIC held that no further intervention of the Commission was required. In view of these observations, I agree with the response of the respondent. Accordingly, no further intervention is warranted at this stage.

8. With respect to query nos. 5 and 6, the respondent has informed all applicable legal framework is available in the public domain on the SEBI website. In this context, I note that the Hon’ble Delhi High Court, in the matter of *Registrar of Companies & Ors. Vs. Dharmendra Kumar Garg & Anr.* and the Hon’ble CIC in the matter of *Shri K Lall vs. Shri M K Bagri* (CIC/AT/A/2007/00112, order dated April 12, 2007), *inter alia*, observed that if the relevant information is available in the public domain, the same cannot be said to be information held by the public authority and consequently, there is no obligation to provide such information to an applicant under the RTI Act. In view of these observations, I find that the respondent cannot be obliged to research and compile the information which is already available in the public domain and then provide the same to the appellant. Accordingly, I do not find any deficiency in the response of the respondent.
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: October 30, 2025

RUCHI CHOJER

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