

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

Appeal No. 3608 of 2019

Arvind Parasramka	:	Appellant
	Vs.	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 17, 2019 (received by the respondent through RTI MIS portal), under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated October 14, 2019 responded to the application filed by the appellant. The appellant filed an appeal dated October 18, against the said response dated October 14, 2019. 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. From the appeal, I note that the appellant is aggrieved by the respondent’s response to his application.
3. **Queries in the application** – The appellant, in his application dated September 17, 2019 had sought the following information:
 1. *The copy of the letter/office memorandum on the basis of which an Investigating Officer/ Adjudicating Officer was appointed in the matter.*
 2. *The name of the Investigating Officer/ Adjudicating Officer who has prepared such Report and a list of matters wherein the same Investing Officer has prepared a Report along with copy of such Reports as prepared by him/ her.*
 3. *Copies of Notices as issued by the Investigating Officer to the entities concerned with the aforementioned matter and the replies received thereto from the entities respectively.*
 4. *Copies of the Findings/Report and conclusions arrived at by the aforesaid Investigating Officer in earlier matters wherein he has been so authorised by SEBI.*
 5. *Copies of documents and/ or information as relied upon by the Investigation Officer in arriving at such conclusions as mentioned in the SEBI Report.*

6. *Copy of Minutes of Meetings wherein the matter and findings of the Investigating Officer were placed, discussed and conclusions were arrived at by the Investigating Officer and opinion of all other members of such meeting.*
 7. *Copy of Warning Letter issued to the Promoters of M/s Calcutta Investment Co. Ltd. as mentioned in the SEBI Report with respect to Non-Disclosure of shares acquired by Ms. Jyoti Goenka in her capacity as Promoter of M/s Calcutta Investment Co. Ltd.*
 8. *Arguments placed in this meeting leading to issue of Warning letter instead of adjudication proceedings for the established violation of Section 29 of SEBI (SAST) Regulations, 2011*
 9. *Copies of the submissions and documentary evidences produced by the entities from wherein it was concluded by the Investigating Officer that no Open Offer violations were made.*
 10. *Copies of Disclosure by M/s Bonanza Trading Co. Pvt. Ltd. And M/s New India Investment Corp. Ltd. Of acquisition and sale of shares as and when required under regulation 29 of SEBI (SAST) 2011*
 11. *Copy of information as submitted by M/s Calcutta Investment Co. Ltd. And as relied upon by the Investigating Officer to conclude that transaction between M/s New India Investment Corp. Ltd. And M/s Bonanza Trading Co. Pvt. Ltd. Did not attract disclosures under SEBI (PIT) Regulations, 2015*
 12. *Copies of action taken by M/s Calcutta Investment Co. Ltd. In disseminating the purported Disclosures to the Calcutta Stock Exchange wherein the shares of M/s Calcutta Investment Co. Ltd. are listed.*
4. The respondent, in response to the queries, observed that the information sought by the appellant pertains to the internal functioning of SEBI and relates to the systems and procedures followed at SEBI. It was further informed that the said information is strategic in nature and the disclosure of same would result in revealing the mind of the regulator and hence hamper the decision making by SEBI in its supervisory and regulatory role. It was observed by the respondent that disclosure of such strategic and confidential information would also affect and compromise the interest of the securities market in specific and may impact the economic interests of the country. The respondent also stated that the information sought is available to SEBI in fiduciary relationship and includes commercial confidential information, disclosure of which could harm the competitive position of entities. Accordingly, the requested information was claimed to be exempt from disclosure u/s 8 (1) (a), 8 (1) (d) and 8 (1) (e) of the RTI Act.

5. The respondent also informed that the subject matter of the application is sub-judice before the Hon'ble NCLT, Kolkata and accordingly, exempt from disclosure in terms of section 8(1)(h) of the RTIO act, as disclosure of details related to the matter may impede the proceedings before the Court.
6. **Grounds of Appeal** –The appellant, in his appeal, submitted that he is not satisfied with the reply of the respondent and that the replies have not been given point wise. It was further submitted that the documents should be provided by the respondent as the same were relied upon while preparing the report which was submitted before the Hon'ble NCLT and that SEBI cannot deny providing the same saying that the matter is sub-judice. .
7. In view of the nature of information sought by the appellant and the reply given by the respondent, I note that the queries have not been examined point-wise in the response and it is not clear as to how the respondent has arrived at the inferences so as to rely on the exemptions provided under section 8(1) of the RTI Act. I note that the respondent is expected to assess whether the information sought by the appellant was available with SEBI and if so, to provide such information to the appellant, unless the same is exempt from disclosure under the provisions of RTI Act.
8. Considering the above observations, I remit the matter to the respondent for *de novo* consideration of the queries of the appellant's application dated September 17, 2019 and to send appropriate response to the appellant in terms of RTI Act within 15 working days from the date of receipt of this order.
9. The Appeal is accordingly disposed of.

Place: Mumbai

Date: November 18, 2019

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