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

Appeal No. 4499 of 2021

Mohit Kumar	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated September 04, 2021 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 ("**RTI Act**"). The respondent, by a letter dated September 27, 2021, responded to the application filed by the appellant. The appellant filed an appeal dated October 17, 2021, against the said response dated September 27, 2021. 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-** On perusal of the appeal, it appears that the appellant is not satisfied with the response provided by the respondent. In view of the submissions made by the appellant, I am dealing with the said queries and the responses in the following paragraphs.

3. **Query number 1(a)-** The appellant, vide query number 1(a) of his application dated September 04, 2021, sought certified photocopies of complaint received register, showing entries related to complaints received from 1992 till now, against staff/officers of SEBI head office Mumbai.

4. The respondent, in response to query number 1(a), observed that the requested information is exempt from disclosure under Section 8(1)(j) of the RTI Act since the same relates to personal information, the disclosure of which has no relationship to any public activity or interest and may cause invasion into the privacy of the individual. The appellant, in his appeal, submitted that common citizens can take copies of complaint received register.

5. I have perused the query and the response provided thereto. I note that the appellant has sought copy of complaint received register dealing with complaints received against staff/officers of SEBI Head Office Mumbai. In this context, the Coordinate bench of CIC, in the matter of *Manoj Arya vs. Cabinet Secretariat*

(Order dated June 26, 2013) has held: " *4. We have carefully gone through the contents of the RTI application and the order of the Appellate Authority. We have also considered the submissions of both the respondent and the third party in the case. The entire information sought by the Appellant revolves around the complaints made against an officer of the government and any possible action the authorities might have taken on those complaints. The Appellate Authority was very right in deciding that this entire class of information was qualified as personal information within the meaning of the provisions of Section 8 (1) (j) of the RTI Act. In this connection, it is very pertinent to cite the decision of the Supreme Court of India in the SLP(C) No. 27734 of 2012 (Girish R Deshpande vs CIC and others) in which it has held that "the performance of an employee/Officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression personal information, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which could cause unwarranted invasion of the privacy of that individual" The Supreme Court further held that such information could be disclosed only if it would serve a larger public interest. The information sought by the Appellant in this case is about some complaints made against a government official and any possible action the authorities might have taken on those complaints. It is, thus, clearly the kind of information which is envisaged in the above Supreme Court order. Therefore, the information is completely exempted from disclosure under the provisions of the RTI Act which both the CPIO and the Appellate Authority have rightly cited in their respective orders.*" Further, the Hon'ble CIC, in the matter of *Mohmad Iqbal Soharatali Ansari vs. CPIO & GM (BSNL)* (order dated August 03, 2015), relied on the ratio of the above cited decision of the Hon'ble Supreme Court and observed that information relating to complaints against public servants and action taken thereon is exempted under Section 8(1)(j) of the RTI Act unless larger public purpose is demonstrated. In view of these observations, I am of the opinion that the requested information is exempt from disclosure under Section 8(1)(j) of the RTI Act. Further, I note that the appellant has not established that the information sought is for larger public purpose. Accordingly, I do not find any deficiency in the response.

6. **Query number 1(b)**- The appellant, vide query number 1(b) of his application, sought certified photocopies of complaint received register, showing entries related to complaints received from 1992 till now, against staff/officers/promoters of SEL Manufacturing company Ludhiana, whose Capital has been announced to be reduced (and the existing public shareholders will be allotted 1 share for 1000 shares holding).

7. In response to query number 1(b), the respondent informed that information sought is not available with SEBI with regard to complaints against staff/officers/promoters of SEL Manufacturing Company. However, it was informed that the resolution plan (CIRP) of SEL Manufacturing Company Ltd. was

approved by the Hon'ble NCLT, Chandigarh Bench under Section 31 of the Insolvency and Bankruptcy Code, 2016. The respondent also informed that the order dated February 10, 2021 was available in the public domain.

8. I have perused the query and the response provided by the respondent. I do not find any reason to disbelieve the observation that the requested information, is not available with SEBI. In this context, I note that the Hon'ble Supreme Court of India in *Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors* (Judgment dated August 9, 2011) held that *".…….But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant*." Further, I note that the Hon'ble CIC in the matter of *Sh. Pattipati Rama Murthy vs. CPIO, SEBI* (Decision dated July 8, 2013), held: *"… if it (SEBI) does not have any such information in its possession, the CPIO cannot obviously invent one for the benefit of the Appellant. There is simply no information to be given."* In view of these observations, I find that the information sought by the appellant was not available with SEBI and therefore, the respondent cannot be obliged to provide such non–available information.

9. Notwithstanding the same, I note that the respondent has informed regarding the approval of the resolution plan of SEL Manufacturing Company Ltd. and availability of the order dated February 10, 2021 on the public domain. I note that the respondent has adequately addressed query number 1(b) by providing the information available with him. Accordingly, I do not find any deficiency in the response.

10. On perusal of the appeal, I note that the appellant has referred to another RTI Application dated May 18, 2021 filed by him wherein the respondent had informed that complaints had been filed against certain promoters of SEL manufacturing Company Ltd. On that basis, the appellant has refuted the extant response dated September 27, 2021 provided by the respondent. I note that the appellant has specifically sought copy of the "complaint received register showing entries related to complaints". In view of the same, I do not find any merit in the submission of the appellant. Accordingly, the same does not warrant consideration at this stage.

11. 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: November 15, 2021

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