

.Central Information Commission
Room No.307, II Floor, B Wing, August Kranti Bhawan, Bhikaji Cama Place,
New Delhi-110066
website-cic.gov.in

Case No. CIC/SM/A/2012/001062

Appellant : **Shri Arun Kumar Agrawal, Bangalore.**

Public Authority : **Securities & Exchange Board of India, Mumbai.**

Date of Hearing : **03rd May, 2016.**
Date of Decision : **09th June, 2016**

Present Appellant : **Present through VC.**

Respondent : **Dr. Anil Kumar Sharma, CPIO, Shri Aman Jain Shri Deepak Wadhwa, Shri Neeraj Malhotra, Advocate at CIC.**

Third Party : **Shri U.K. Sinha, Chairman, SEBI represented by Shri Gopal Singh & Shri Manish Kumar, Advocates at CIC.**

ORDER

1. The appellant, Shri Arun Kumar Agrawal, submitted RTI application dated 17.01.2012 before the Central Public Information Officer (CPIO), Securities and Exchange Board of India (SEBI), Mumbai seeking (a) the assets and liabilities statement of Shri U.K. Sinha, Chairman, SEBI for the last three years, or for the period declared by him; and (b) the total present emoluments of Shri U.K. Sinha, Chairman, SEBI along with perquisites on which he has been employed with SEBI.

2. The CPIO in his reply dated 13.02.2012 informed the appellant in respect of point (a) that the information sought was personal information and the same was held by the SEBI in fiduciary capacity. Hence, the same could not be provided under section 8(1) (e) & (j) of the RTI Act. With respect to point (b) the appellant was informed that the information was available in public domain. The appellant's first appeal dated 21.02.2012 was dismissed by the order dated 16.03.2012 as the first appellate authority did not find any merit in the appeal.

3. This case was earlier heard by the full bench of Commission on 11.08.2014 and decided vide order dated 28.11.2014 allowed disclosure of the requested information directing the respondents to provide information sought on points (a) and (b) of the RTI application within four weeks, after considering the following submissions of the appellant:

- a) that the information relating to the emoluments of Chairman, SEBI are to be disclosed on the website of the SEBI as per section 4(1)(b)(x) of the Act;
- b) that the requested information should be disclosed as the officers of the SEBI regulate the capital market;
- c) that Shri Sinha gave up a job of over 3 crores per annum to become Chairman, SEBI at emoluments of Rs. 36 lakhs per annum, in order to dilute cases of some of the major offenders of the capital market;
- d) that the Act should align itself with the Lokpal and Lokayuktas Act, 2013 and the requested information should be disclosed;
- e) and in view of the order dated 06.02.2013 in case No. CIC/SM/A/2012/001082 – Arun Kumar Agrawal Vs. CPIO, DOPT by which property returns of Shri U.K. Sinha, retired IAS officer were ordered to be disclosed.

4. Against the full bench order of the Commission, the Respondent SEBI filed a writ petition before the Hon'ble High Court of Bombay [W.P.(C) No. 3386/2014- SEBI Vs. Arun Kumar Agrawal. The Hon'ble High Court of Bombay had disposed of the writ petition vide order dated 13.02.2015. The Hon'ble High Court of Bombay observed that: "...the Central Information Commission while allowing the appeal had not given any reason whatsoever for taking a view which is contrary to the view taken by it (the CIC in its earlier order dated 06.11.2012)..." and set aside the impugned order dated 28.11.2014 of the full bench of the Commission and remanded the matter back to the Central Information Commission with directions to decide the appeal expeditiously after giving personal hearing to the parties.

5. In compliance with the direction of the Hon'ble High Court of Mumbai, the matter was heard by full bench of the Commission on 03.05.2016. The appellant stated that he would not like to join in the hearing as he had no faith in the

Commission, but the appellant was present for VC and duly participated in the hearing. The appellant stated that he had received the notice only on 27.4.2016 and he had requested the Bench to be reconstituted. He further stated that the CIC's order in the matter had not attained finality as the Delhi High Court remanded all the four cases to the Commission. There was conflict of interest as the Commissioners had not declared their movable assets, whereas the Hon'ble Judges of the High Courts and Supreme Court of India had done that. The Chairman, SEBI who regulates the share market can purchase shares and therefore there was a conflict of interest and any information about assets should be disclosed. He further stated that the notification of Lokpal and Lokayuktas Act, 2013 issued was being extended repeatedly, but in his view the movable assets should be placed in public domain of public servants. The respondents stated that the appellant had initially submitted four separate applications relating to different issues. The case relating to disclosure of assets and liabilities only was relevant. They stated that the information on the assets and liabilities of the Chairman, SEBI was clearly personal information, exempt u/s 8(1)(j) of the RTI Act. They stated that third party had to be heard in the matter and that no appeal had been filed separately for seeking property returns and the High Court had remanded only the cases relating to Reliance and therefore it was not the mandate of the Commission to hear this case. The respondents added that the Chairman, SEBI had been giving his property returns to SEBI which is being shared with the DoPT, even though he was no more a civil servant. Furthermore, the appellant had not specified as to what public interest would be served for obtaining the personal information of the third party and requested the Commission that the matter to be dismissed with exemplary costs.

6. The Commission directed the respondents and the third party's representative to send their written submissions, which have been received by the Commission.

Appellant's submissions:

7. The appellant's submissions sent through e-mail dated 24.4.2016 were received by the Commission, in which he has stated as under:

- *The RTI application for the instant appeal was made on 17.01.2012. He had to go through four High Court Appeals in Mumbai and Delhi for no fault of his and incur heavy expenses for information which was asked in public interest. The Appellant alleged insensitivity of the CIC in passing non speaking orders leading to the inconvenience caused to citizen;*
- *The Hon'ble Bombay High Court vide its order dated 13.02.2015 rightly held that the order of the Commission dated 28.11.2014 was not a speaking order as no reasons had been given and reverted the matter in February, 2015 for deciding the appeal expeditiously. The order was brought to the notice of the Registrar of the CIC and the Ld. Commissioners on two occasions but the matter was kept pending for 16 months in spite of the order of the Hon'ble High Court. The appellant had requested the Hon'ble High Court to decide the matter knowing fully well that the matter would be kept pending by the Commission indefinitely, as in the past when similar directions had been issued by the Hon'ble High Courts to the Commission.*
- *Two of the Ld. Commissioners are members of the present Bench who had earlier decided the appeal, which was remanded by the Bombay High Court;*
- *In the instant case, if the outcome of the appeal is against the SEBI Chief, the same will be challenged by him and the matter will not be decided till he retires upon completing his tenure.*
- *The appellant has reasoned that the SEBI chief should disclose the information on the assets is the conflict of interest in his holding publicly listed shares and mutual fund units which he as the Chairman of SEBI which regulates the shares of the publicly listed companies. In fact there is a conflict of interest between all officers of SEBI as regulators and investors. The SEBI Act does not prohibit its officers from investing in shares in companies and units of mutual fund which are publicly listed and traded. At the same time, they regulate these companies and are privy to information about these companies which the general public is not. Every action of SEBI against a company impacts its price.*
- *Further as per contentions of the appellant, integrity of the SEBI Chief has been questioned on various occasions and complaints against him on*

corruption involving thousands of crores of public money is pending before the CBI, Finance Minister etc.

- *The appellant has alleged that in his opinion what is true for Shri U.K. Sinha is also true for the Ld. Commissioners as far as conflict of interest are concerned.*
- *The appellant had filed a RTI application with the CIC regarding information on the movable assets of the Ld. Commissioners. He was informed that the same had not been declared by the Ld. Commissioners, by the CPIO and the same reason was given in the first appeal.*
- *It was because of the order favouring RIL, the appellant emphatically sought information to satisfy himself as to whether the concerned Ld. Commissioners were not holding shares in RIL or in any mutual fund having RIL shares that RTI was filed for disclosure of movable assets.*
- *The Appellant has stated that the Ld. Commissioner who according to the roster hears appeals against SEBI is a batch mate of the SEBI Chief U.K. Sinha and hence he expressed his doubts as to whether it too constitutes conflict of interest.*
- *He has further elucidated that there is a further conflict of interest in that as to whether the Ld. CIC who have not declared their movable assets will order the declaration of movable assets of the SEBI Chairman U.K. Sinha. Additionally, the appellant has contended that if officials in high position choose not to be transparent in the disclosure of their assets, then adverse conclusions are bound to be drawn in a country high on corruption index. The adverse conclusions relates to the integrity of the persons who refuse to declare their assets. His apprehensions include the Government of India allowing repeated extensions for declaration of assets by officials u/s 44 of the Lokpal Act 2013, the latest deadline being 31.07.2016. There have been five such earlier extensions and the reason for the same, according to the appellant are far too obvious.*
- *The appellant for the above said reasons has expressed his loss faith in the system viz. in the Government, the Commission and SEBI and therefore for these reasons has no hope left for the officials being transparent about their assets which is the first step towards eliminating corruption from the system.*

- *The appellant for reasons mentioned above has decided not to appear before the Hon'ble Commission and leaves it to the sensitiveness of the Ld. Members of the Commission to decide the issue in public interest or otherwise, as the case may be.*

8. The respondents and representatives of third party stated that they will file the written submissions after the hearing. The Commission directed the respondents and representatives of third party to file their submissions within ten days of the hearing.

Respondent's submissions:

9. The submissions dated 12.05.2016 from SEBI were received by the Commission, vital contentions wherein are as follows:

- *The Commission's order dated 06.11.2012 passed by the then Chief Information Commissioner was not assailed/challenged by the appellant and attained finality and could not have been reopened.*
- *Shri U.K. Sinha, Chairman, SEBI was not an appointee of SEBI and was appointed by Government of India. In terms of Section 4(4) of the SEBI Act, Shri Sinha in the capacity of the Chairman of SEBI had been appointed by the Central Government and the Section 5 of the said Act, govern the term of office and other conditions of service of the Chairman of SEBI.*
- *Shri U.K. Sinha had been regularly filing his property returns to SEBI, which were being shared with the Government of India. The manner in which it can be dealt with and disclosed is a policy decision to be taken by the Government of India with regard to all public servants under the Lokpal and Lokayuts Act, 2013. This policy decision was yet to be taken by the Government. Whenever this decision taken, it will apply uniformly to all public*

servants and it will not single out one individual officer at the behest of malafide intention of the appellant.

- *The information as sought for by the appellant viz. the statement of assets and liabilities was denied on the ground that the same was also the personal information of Shri Sinha and hence exempt from disclosure under the provisions of Section 8(1)(j) of the RTI Act, as held by the Apex Court titled as Girish Ramchandra Deshpande Vs. Central Information Commission and others, [2013(1) SCC 212].*
- *The appellant had earlier challenged and assailed the appointment of Shri U.K. Sinha as Chairman, SEBI before the Hon'ble Supreme Court of India on various grounds and sought his removal from the post of Chairman by means of a writ petition which was dismissed by the Apex Court vide its judgment dated 01.11.2013 titled as Arun Kumar Aggarwal Vs. Union of India & Ors reported in 2014 by holding that there was no merit in the petition. The purported reasons shown and stated by the appellant for disclosure of the above information as being in public interest, has already been gone into and examined by the Hon'ble Supreme Court of India had has been rejected. The Apex Court vide its judgement inter-alia held:*

“84 Mr. Salve, in our opinion, has also rightly submitted that there is nothing surprising in Respondent 4 accepting the post of Chairman, SEBI which carried much lesser emoluments than he enjoyed as Chairman, UTI AMC. It is not abnormal for people of high integrity to make a sacrifice financially to take up the position of honour and service to the nation. In any event, we are of the opinion, the acceptance by Mr. Sinha of lesser salary as Chairman of SEBI cannot ipso facto lead to the conclusion that the accepted the position for purpose of abusing the authority of Chairman, SEBI”.

The Respondent has further made specific reference to paragraph 55 and 60 of the said judgment, to emphasize the fact that all the issues being raised by the appellant in the appeal before the Hon'ble CIC, were duly considered and dealt with by the Apex Court.

- Respondents have further referred to the Full Bench decision of the Commission dated 28.11.2014 relating to the present case, wherein it had referred to its earlier order dated 06.02.2013 in the matter of the appellant vs. DoPT and therein directing disclosure of the information relating to Chairman, SEBI. In respect of the said order of the CIC, they stated that the said order was not absolute, but with a rider, which read as 'we understand that the central government has, in the meanwhile, decided to disclose the property returns of all the IAS officers in the public domain. If that is so, there is no reason why the property returns of this particular officer should not be disclosed. Hence the DoPT was not required to disclose the details of returns filed with them. The rider "...if that is so,..." in the order refers to disclosure under Lokpal and Lokayukta Act, 2013 which is applicable to every public servant and no one is singled out from the same. However, the policy decision of disclosure under the Lokpal and Lokayukta Act, 2013 is currently pending with the Government as per notification OM No. 407/12/2014-AVD-IV(B) dated 12.04.2016 issued by DoPT.
- The respondents have pointed out that the issue of public interest in the present matter had been decided by the Chief Information Commission vide the order dated 06.11.2012 wherein it was noted that "the information regarding the assets and liabilities of the Chairman, SEBI is clearly in the nature of personal information exempt under sub-section 1(j) of Section 8 of the RTI Act. We do not agree with the submissions of the appellant that greater public interest would warrant the disclosure of such information and would, therefore, not like to direct the CPIO to disclose any such information."
- The respondents stated that the judgment passed by the Hon'ble Supreme Court on 01.11.2013 in WP No. 374 of 2012 Arun Kumar Vs. Union of India & Ors. which has already dealt with the issue of larger public interest and is the only development that took place between the passing of the order dated 06.11.2012 and the order dated 28.11.2014. In view of the same, they stated that before passing the order dated 28.11.2014, the Hon'ble Commission ought to have considered that the contentions of the appellant about the public interest angle have already been examined and found to be devoid of merit by the Hon'ble Supreme Court and thus there remains no ground for

overriding the exemptions. In any event, the findings of the Apex judicial body which had attained finality cannot be questioned or reopened before a quasi judicial body and the said attempt on the part of the appellant besides being mala fide is a gross abuse of the process of law.

- *The appellant's contention that the Chairman, SEBI and other employees of SEBI were investing in shares of the companies, thereby giving rise to conflict of interest and thus warranting disclosure of information, as sought by him, in public interest have been rebutted by the respondents as factually incorrect, baseless and thus deserving to be dismissed. Regulation 64 of the SEBI (Employees Service) Regulations, 2001 permits to invest only in mutual funds, where there is no control of the employee to select the companies. The Regulations specifically prohibit employees to make any other equity related instruments. The Respondents have further added that SEBI had also prescribed Code of Conduct, which apart from its employees, is also applicable to the Chairman and Whole Time Members. The said Code, restricts all employees, Chairman and Whole Time Members, from making any investment in equity or equity related instruments.*

Third Party's submissions:

10 The submissions dated 12.05.2016 have also been received from Shri U.K. Sinha, Chairman, SEBI (hereinafter referred to as the third party) by the Commission, who has stated as under:

- *He has no objection to the statement of his assets and liabilities made public in pursuance of a government policy applicable uniformly to all public servants. However, he has objection to his being singled out for such disclosure at the behest of the appellant, who has a long history of filing vexatious petitions against him, major one of which had been dismissed by the Hon'ble Supreme Court vide judgement dated 01.11.2013 in WP No. 374 of 2012. The requested information should not be directed to be given to the appellant, because the Hon'ble Commission passed a composite order dated 06.11.2012 pertaining to four specific cases. Only one out of this pertained to furnishing information relating to*

assets and liabilities pertaining to him. There was no challenge to this order by any party and therefore the said order attained finality.

- The order dated 06.11.2012 was challenged by Reliance Industries Ltd. ('RIL') before the Hon'ble Delhi High Court with respect to issues which pertained to RIL only. The appellant did not prefer any appeal against the order of refusal of disclosure of information relating to assets and liabilities statement pertaining to him and hence the appellant cannot take advantage of an order of remand passed at the instance of a distinct party. The Third party has explained that the writ petition (C) No. 7248/2012 was filed by RIL on the grounds that no notice of hearing was given to it before the directions of disclosure of information were passed. The order of Hon'ble CIC qua the assets and liabilities statements etc. was not under challenge. By order dated 30.01.2013 the Hon'ble Delhi High Court allowed the writ of RIL and remanded the matter for re-hearing only qua the petitioners therein i.e. RIL. Plain reading of the said order shows that re-hearing was only qua RIL and not with respect to all the four matters. The writ petition No. 4637/2013 was filed by RIL seeking hearing by at least one member who had knowledge and expertise in law.
- The Third party has further contended that the appellant is attempting to misread the order dated 14.03.2014 of the Hon'ble Delhi High Court. Since all the notices/orders passed by the Hon'ble Commission always jointly referred to four appeals (even though none had been challenged by the appellant), there was no occasion for RIL to identify the appeal pertaining to it. As a result, the four orders had been collectively referred in the order of Hon'ble Delhi High Court. However, this alone would not entitle the appellant to seek re-opening of a decided matter. The Hon'ble Commission was in error of re-hearing all the matters and reviewing its order dated 06.11.2012 whereby the appeal seeking the assets and liabilities statements of third party etc. was clearly turned down by a reasoned order. Power of review is a creature of statute and cannot be inferred, since no such power is available to the Hon'ble Commission under the RTI Act, the Hon'ble Commission could not have reviewed its earlier order. The Hon'ble Commission is a quasi judicial body and does

not have inherent power to review which is available to a constitutional court.

- The third party has further stated that the required information had been regularly furnished by him to Govt/DoPT. Under the Lokpal and Lokayukta Act, 2013, the issue of disclosure is in two parts – (a) disclosure to the Government and (b) disclosure to the public. However, as per notification No. 407/12/2014-AVD-IV(B) dated 12.04.2016 issued by DoPT cut-off date for filing the information had been extended till July 31, 2016 for all officers covered by it. This includes him. Pending such decision, no precipitate orders should be passed. Mr. Sinha had been voluntarily furnishing the information to SEBI and to the Government from time to time and hence it is a case of much ado about nothing. The Third party has submitted that the appellant is simply trying to short circuit the entire process and gain information, with which he has neither any concern nor which would serve any larger public interest and accordingly he had disclosed the justification for the third party to be singled out and that too at his instance, when he has had a chequered past in the context of his tirades against the third party. The Hon'ble Supreme Court had pronounced a detailed judgement running into 87 pages on 01.11.2014 and has severely castigated the role of the appellant. The appellant seeks to lay emphasis on a subsequent order in an application seeking modification of the aforesaid judgment dated 1.11.2014, whereby some of the observations had been expunged. In other words, 85 pages remain un-expunged. A plain reading of the judgement shows the conduct of the appellant vis-à-vis the third party. The appellant has chosen to conveniently gloss over this vital aspect.*
- The nature of public interest could not be established by the appellant which would be served by procuring the desired information nor has the appellant explained the relation between personal information of third party serving public interest. The conduct of the appellant is contumacious, who seeks to merely scandalize the matter and the issue. On the one hand he is seeking to scandalize the Regulator through its Chairman, as is borne out from the findings in the judgment of the Hon'ble*

Supreme Court. On the other hand, the appellant is also trying to scandalize and brow-beat the Commission by writing that he shall not appear since he has no faith in it. Despite expressing his doubt on the integrity of two of the Commissioners comprising the Bench hearing the case and refusing to appear before the Bench, the Appellant attended the hearing through video conferencing. The appellant had contended that the Chairman SEBI and other employees of SEBI are investing in shares of the companies, thereby giving rise to conflict of interest and thus warranting disclosure of the information, as sought by him, in public interest. This contention is factually incorrect, baseless and deserves to be dismissed. Regulation 64 of the SEBI (Employees Service) Regulations, 2001 permits the employees of SEBI to make investment only in mutual funds, where there is no control of the employee to select the companies. The Regulations specifically prohibit employees to make any other equity related instruments. Similarly, SEBI also has a prescribed Code of Conduct, which is applicable to the Chairman and Whole Time Members and employees of SEBI.

Conclusion / Decision

11. While discussing the contentions of the parties, at the outset, the Commission opines that the reliance placed on the Commission's decision dated 06.11.2012, by both the respondent and third party, is misplaced as the issue was not emphasized before the Hon'ble Bombay High Court, which remanded back the matter of disclosure of assets and liabilities statement of Shri U.K. Sinha, Chairman, SEBI to be decided afresh.

12. The Hon'ble Supreme Court in the matter of Girish Ramchandra Deshpande [decision dated 03/10/2012 - SLP(C) No. 27734 of 2012] has held that information relating to assets & liabilities of an individual is "personal information" which stands exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless the CPIO is satisfied that larger public interest justifies the disclosure of such information.

13. What flows from the judgment of the Apex Court is that the details of assets & liabilities of an individual constitute personal information and is exempted from disclosure under Section 8(1)(j) and that the said personal information can only be divulged if the CPIO reaches a conclusion that it would be in larger public interest to reveal such information.

14. The exemption under Section 8(1)(j) of the said Act had come up for consideration before the Apex Court in Bihar Public Service Commission's Case (supra). *The Apex Court after observing that information which relates to personal information recorded by [Section 8\(1\)\(j\)](#) of the said Act stands exempted and can be disclosed only if larger public interest so warrants, has thereafter held that the said **exemption is a statutory exemption which must operate as a rule and only in exceptional cases, would disclosure be permitted that too for reasons to be recorded demonstrating satisfaction to the test of larger public interest.** In so far as the competing claims between larger public interest and the invasion of privacy, the observations of the Apex Court in paragraph 23 of the said judgment are material and are reproduced herein under:*

“23 The satisfaction has to be arrived at by the authorities objectively and the consequences of such disclosure have to be weighed with regard to the circumstances of a given case. The decision has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision. Certain matters, particularly, in relation to appointment, are required to be dealt with great confidentiality. The information may come to knowledge of the authority as a result of disclosure by others who give that information in confidence and with complete faith, integrity and fidelity. Secrecy of such information shall be maintained, thus, bringing it within the ambit of fiduciary capacity. Similarly, there may be cases where the disclosure has no relationship to any public activity or

interest or it may even cause unwarranted invasion of privacy of the individual. On these protections have to be given their due implementation as they spring from statutory exemptions. It is not a decision simpliciter between private interest and public interest. It is a matter where a constitutional protection is available to a person with regard to the right to privacy. Thus, the public interest has to be construed while keeping in mind the balance factor between right to privacy and right to information with the purpose sought to be achieved and the purpose that would be served in the larger public interest, particularly when both these rights emerged from the constitutional values under the Constitution of India."

Since the right to privacy has been recognized as a fundamental right to which a citizen is entitled to, therefore, unless the condition mentioned in [Section 8\(1\)\(j\)](#) is satisfied, the information cannot be provided.

15. This Commission in its decision dated 28/11/2014 (set aside by the Bombay High Court) has observed as under:

" 11. This Commission recognizes the perspective brought out on public interest in section 8(2) of the Act in the course of the hearing. The appellant underlined the dimensions of public interest overriding the protected interest, i.e., the protection given to the 'fiduciary' and 'personal information' elements. However, the other side argued that the appellant is overstating the public interest. The appellant said that Shri Sinha gave up a job of very high emoluments, which was done to dilute the cases of some major defaulters in the capital market, hence, the need to know, in the public interest, about the assets and liabilities of Shri Sinha.

12. Taking into account the arguments of the appellant, this appears to be fit case where the requested information should be disclosed in larger public interest.”

16. The Apex Court in its judgment dated 01.11.2013 (WP (C) 374 of 2012-Arun Kumar Agrawal Vs. Union of India & Ors.) has brushed aside the said argument holding as under:

“84 Mr. Salve, in our opinion, has also rightly submitted that there is nothing surprising in Respondent 4 accepting the post of Chairman, SEBI which carried much lesser emoluments than he enjoyed as Chairman, UTI AMC. It is not abnormal for people of high integrity to make a sacrifice financially to take up the position of honour and service to the nation. In any event, we are of the opinion, the acceptance by Mr. Sinha of lesser salary as Chairman of SEBI cannot ipso facto lead to the conclusion that he accepted the position for purpose of abusing the authority of Chairman, SEBI.....”.

The Apex Court has further observed that the petition does not satisfy the test of utmost good faith which is required to maintain public interest litigation.

17. The right to privacy, entrenched in Article 21 of our Constitution, recognizes that human beings have a right to a sphere of intimacy and autonomy that should be protected from invasion. Hence, the burden on the appellant to satisfy the test of larger public interest is much more onerous than may be in routine case. The Hon'ble Delhi High Court in its decision dated 13/07/2012 (W.P. (C) No. 1243 of 2011- UPSC vs. R.K. Jain) has observed as under:-

“26.....The authorities would, in such cases, be cautious to ensure that the ground of “public interest” is not routinely used as a garb by busy bodies to pry on the personal affairs of individual private citizens/entities, as it would be against public

interest (and not in public interest) to permit such personal information of third parties to fall into the hands of anybody or everybody.

18. The appellant in his submissions has made a series of allegations against the third party, Shri U.K. Sinha, Chairman, SEBI, including that there is a conflict of interest in his holding publicly listed shares and mutual fund units' that his integrity has been questioned on various occasions and complaints against him on corruption involving thousands of crores of public money are pending before CBI, Finance Minister etc. and so on; but has failed to produce any documentary evidence substantiating his allegations. The allegations are nothing but statements of belief that some wrong or harm has occurred. They are not conclusive proof of such wrong or harm having occurred. The stage of leveling of allegation is a stage preceding to the examination of such allegations, which may or may not found to be correct by the authority competent to examine such allegations under the law. Thus, mere leveling of allegation can hardly be said to satisfy the condition of disclosure being made in larger public interest.

19. For the reasons aforesaid stated the Commission is of the considered opinion that the appellant in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information is likely to cause unwarranted invasion of privacy of the individual under Section 8(1)(j) of the RTI Act. It being so, we are not inclined to allow disclosure of the requested information. The matter is dismissed on the said grounds.

(Basant Seth)
Information Commissioner

(Manjula Prasher)
Information Commissioner

(M.A. Khan Yusufi)
Information Commissioner

Authenticated true copy:

Registrar

Address of the parties:

Shri Arun Kumar Agrawal,
T-8, Eagleton, Golf Resort,
30, Km. Bangalore Mysore Highway Bidadi,
Bangalore South District,
Bangalore-562109.

The Central Public Information Officer,
Securities & Exchange Board of India,
SEBI Bhawan, Plot No. C4-A, G-Block,
Kurla Complex, Bandra (E),
Mumbai-400051.

The First Appellate Authority,
Securities & Exchange Board of India,
SEBI Bhawan, Plot No. C4-A, G-Block,
Kurla Complex, Bandra (E),
Mumbai-400051.