

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1664 OF 2009**

Securities and Exchange Board of India	...	Petitioner
vs.		
1. Yogesh Babulal Mehta		
2. Central Information Commission		
3. The Bombay Stock Exchange	...	Respondents

**WITH
WRIT PETITION NO. 1033 OF 2010**

Securities and Exchange Board of India	...	Petitioner
vs.		
1. Dhirendra Kumar		
2. Central Information Commission	...	Respondents

**WITH
WRIT PETITION NO. 1034 OF 2010**

Securities and Exchange Board of India	...	Petitioner
vs.		
1. Satish Kumar Jain		
2. Central Information Commission	...	Respondents

**WITH
WRIT PETITION NO. 1032 OF 2010**

Securities and Exchange Board of India	...	Petitioner
vs.		
1. Dushyant Vyas		
2. Central Information Commission	...	Respondents

**WITH
WRIT PETITION NO. 1710 OF 2009**

Securities and Exchange Board of India	...	Petitioner
vs.		
1. Shri Bhoj Raj Sahu		
2. Central Information Commission		
3. The Bombay Stock Exchange	...	Respondents

**WITH
WRIT PETITION NO. 1693 OF 2009**

Bombay Stock Exchange Ltd.	...	Petitioner
vs.		
1. Central Information Commission		
2. Securities Exchange Board of India		
3. Bhoj Raj Sahu	...	Respondents

**WITH
WRIT PETITION NO. 1694 OF 2009
WITH
WRIT PETITION NO. 1695 OF 2009
WITH
WRIT PETITION NO. 2210 OF 2009**

Bombay Stock Exchange Ltd.	...	Petitioner
vs.		
1. Central Information Commission		
2. Securities Exchange Board of India		
3. Yogesh Mehta	...	Respondents

Mr. J. J. Bhatt, Senior Advocate a/w. Ms. Misha Patel, Mr. Omprakash Jha, Ms. Shivani Kumbhojkar and Ms. Mugdha Narkar, i/b. The Law Point for petitioners in WP/1664/2009 and WP/1710/2009.

Mr. Prathamesh Kamat a/w. Mr. Omprakash Jha, Ms. Shivani Kumbhojkar and Ms. Mugdha Narkar, i/b. The Law Point for petitioners in WP/1033/2010, WP/1034/2010, WP/1032/2010 and respondent No.2 in WP/1693/2009, WP/1694/2009, WP/1695/2009 and WP/2210/2009.

Mr. Pesi Modi, Senior Advocate, a/w. Ms. Kalpana Desai, Mr. Kingshuk Banerjee, Mr. Arnav Mohanty, Mr. Ritvik Kulkarni, Mr. Arnab Ray and Mr. Surya Ravikumar, i/b. Khaitan and Co. for petitioner in WP/1693/2009, WP/1694/2009, WP/1695/2009 and WP/2210/2009 and respondent No.3 in WP/1664/2009.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ

Reserved on : 10th AUGUST, 2026
Pronounced on : 18th AUGUST, 2026

JUDGEMENT: (Per Manish Pitale, J):

. A common question arises for consideration in these petitions, as to whether under the provisions of the Right to Information Act, 2005 (RTI Act), a public authority is obliged to collect or obtain information from a private body, to furnish the same to an applicant seeking information under the provisions of the RTI Act. In the impugned orders passed by the Central Information Commission (CIC), it is held that Securities and Exchange Board of India (SEBI) is obliged to obtain information from a third party, in this case, Bombay Stock Exchange (BSE) and to provide the same to the applicant seeking the same. The CIC has issued the said direction on its interpretation of the provisions of the RTI Act, particularly Section 2(f) thereof, which defines the term 'information'.

2. There are nine writ petitions in this group, of which five writ petitions have been filed by SEBI and four by BSE. Writ Petition No.1710 of 2009, which is filed by SEBI, is treated as the lead petition, for the reason that the order dated 25.05.2009 impugned therein, is the basic order passed by the CIC, based upon which the orders impugned in the other writ petitions have been passed.

3. In all the said writ petitions, SEBI and BSE are represented by counsel. The original applicants, who sought information from SEBI as a regulator, were served. But, they have chosen not to appear in these writ petitions before this Court. In all the writ petitions, Rule

was granted and they were all tagged together, in the light of the aforesaid common question arising for consideration. In all the writ petitions, the impugned orders were stayed.

4. The question has arisen in the backdrop of the original applicants (respondents herein) seeking information under the RTI Act from SEBI with regard to certain aspects, requiring SEBI to obtain such information from BSE and to provide the same to the applicants. The CIC has held in the impugned orders that as per the provisions of the RTI Act, SEBI is under an obligation, not only to provide information available with it as a public authority, but it is also under an obligation to collect such information from third parties like BSE and to provide it to the applicants.

5. Mr. Bhatt, learned senior counsel appearing for SEBI in the lead Writ Petition No.1710 of 2009 and also in Writ Petition No.1664 of 2009, led the arguments on behalf of the petitioners. Mr. Pesi Modi, learned senior counsel appeared for BSE in the writ petitions filed by the BSE, raised identical arguments. Mr. Prathamesh Kamat, learned counsel appeared for SEBI in the remaining writ petitions, also supported the contentions raised by the learned counsel for the petitioners.

6. The learned counsel for the petitioners invited attention of this Court to the provisions of the RTI Act, including Sections 2(f), 2(h), 2(j), 6, 8, 11 and 18 thereof. On a conjoint reading of the said provisions, it was submitted that the decision of CIC in the impugned orders and the direction issued to SEBI, is unsustainable. It was submitted that as a public authority and a regulator, SEBI would be under obligation to provide information available with it at the time

when an application seeking information is submitted, subject to the provisions of the RTI Act, including Section 8 thereof. But, it is not under obligation to collect information from third parties such as BSE to provide the same to the applicants.

7. Attention of this Court was invited to the judgements of the Supreme Court in the cases of *Central Board of Secondary Education (CBSE) and another vs. Aditya Bandopadhyay and others*, (2011) 8 SCC 497, *Central Public Information Officer, Supreme Court of India (CPIO) vs. Subhash Chandra Agarwal*, (2020) 5 SCC 481 and judgement of Delhi High Court in the case of *Telecom Regulatory Authority of India (TRAI) vs. Akshay Kumar Malhotra*, 2025 SCC OnLine Del 10.

8. It was submitted that the position of law laid down in the case of **CBSE and another vs. Aditya Bandopadhyay and others** (*supra*), has been approved in the Constitution Bench judgement of the Supreme Court in the case of **CPIO vs. Subhash Chandra Agarwal** (*supra*), which is followed by the aforesaid judgement of the Delhi High Court in the case of **TRAI vs. Akshay Kumar Malhotra** (*supra*). It was further brought to the notice of this Court that even the CIC, in the light of the position of law clarified by the Supreme Court, has held in subsequent orders that SEBI is not under an obligation to collect or obtain information from third parties to provide the same to the applicants under the provisions of the RTI Act.

9. On the basis of the aforesaid judgements, it was submitted on behalf of the petitioners that the question arising in these petitions, is covered in their favour and that therefore, this Court may consider allowing the petitions.

10. As noted hereinabove, the original applicants seeking information, in whose favour the CIC had passed the impugned orders, chose not to appear before this Court, despite service of notice. Hence, the petitions were taken up for hearing and disposal, upon considering the contentions raised on behalf of the petitioners.

11. In order to appreciate the contentions raised on behalf of the petitioners and to appreciate the context in which the Supreme Court has made observations in the aforementioned judgements, it would be appropriate to refer to the relevant provisions of the RTI Act. The said provisions are as follows:

“2. Definitions:

In this Act, unless the context otherwise requires,--
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- (f) ‘information’ means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

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- (h) ‘public authority’ means any authority or body or institution of self- government established or constituted--
(a) by or under the Constitution;
(b) by any other law made by Parliament;
(c) by any other law made by State Legislature;
(d) by notification issued or order made by the appropriate Government,

and includes any--

- (i) body owned, controlled or substantially financed;
- (ii) non-Government organisation substantially financed,

directly or indirectly by funds provided by the appropriate Government;

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- (j) 'right to information' means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to--

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

8. Exemption from disclosure of information.

- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,--
 - (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
 - (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
 - (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
 - (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the

competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (f) information received in confidence from foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

- (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be

denied to the Parliament or a State Legislature shall not be denied to any person.

- (2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.
- (3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

11. Third Party Information:

- (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

- (2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.
- (3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.
- (4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.”

12. It is to be noted that Section 6 of the RTI Act pertains to the manner in which request can be made for obtaining information and Section 19 thereof pertains to appeals that can be filed thereunder.

13. A perusal of definition of the term ‘information’, as given in the above-quoted Section 2(f) of the RTI Act, shows that a public authority is required to furnish information to an applicant in the forms specified therein, which is held by the public authority relating to any private body. The said provision indeed indicates its wide

sweep. But, obviously it is subject to the other provisions of the Act, including Sections 8 and 11 thereof, quoted hereinabove.

14. A bare reading of the said provisions clearly shows that the public authority would be under obligation to provide information to an applicant applying under Section 6 of the RTI Act and that it shall be such information as held by it at the point in time the request for such information is made. The provisions do not indicate that a public authority, like SEBI in the present case, which is a regulatory body empowered to call upon third parties to provide information in terms of its own governing statute, is under an obligation to obtain information from third parties to satisfy persons applying for such information.

15. In the case of **CBSE and another vs. Aditya Bandopadhyay and others** (*supra*), the Supreme Court observed as follows:

“61. Some High Courts have held that Section 8 of the RTI Act is in the nature of an exception to Section 3 which empowers the citizens with the right to information, which is a derivative from the freedom of speech; and that, therefore, Section 8 should be construed strictly, literally and narrowly. This may not be the correct approach. The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information. The Preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interests. While

Sections 3 and 4 seek to achieve the first objective, Sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore, when Section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals.

62. When trying to ensure that the right to information does not conflict with several other public interests (which includes efficient operations of the Governments, preservation of confidentiality of sensitive information, optimum use of limited fiscal resources, etc.), it is difficult to visualise and enumerate all types of information which require to be exempted from disclosure in public interest. The legislature has however made an attempt to do so. The enumeration of exemptions is more exhaustive than the enumeration of exemptions attempted in the earlier Act, that is, Section 8 of the Freedom to Information Act, 2002. The courts and Information Commissions enforcing the provisions of the RTI Act have to adopt a purposive construction, involving a reasonable and balanced approach which harmonises the two objects of the Act, while interpreting Section 8 and the other provisions of the Act.
63. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of “information” and “right to information” under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. **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. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide “advice” or “opinion” to an applicant, nor required to obtain and furnish any “opinion” or “advice” to an applicant. The reference to “opinion” or “advice” in the definition of “information” in Section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

(Emphasis supplied)

16. The specific observation made in the above-quoted paragraph No.63 of the said judgement clearly lays down the position of law to the effect that the RTI Act does not place an obligation upon a public authority like SEBI to collect or collate information not available with it and then to furnish the same to the applicants. The said position has been clarified in no uncertain terms.

17. Subsequently, the Constitution Bench of the Supreme Court, in the case of **CPIO vs. Subhash Chandra Agarwal** (*supra*), while dealing with various questions under the RTI Act, also considered the said aspect of the matter. In the said judgement, while referring to the definition of the term ‘information’ under Section 2(f) of the RTI Act, the Supreme Court observed as follows:

“20. “Information” as per the definition clause is broad and wide, as it is defined to mean “material in any form” with amplifying words including records [a term again defined in widest terms vide clause (i) to Section 2 of the RTI Act], documents, emails, memos, advices, logbooks, contracts, reports, papers, samples, models, data, material held in

electronic form, etc. The last portion of the definition clause which states that the term “information” would include “information relating to any private body which can be accessed by a public authority under any other law for the time being in force” has to be read as reference to “information” not presently available or held by the public authority but which can be accessed by the public authority from a private body under any other law for the time being in force. The term — “private body” in the clause has been used to distinguish and is in contradistinction to the term — “public authority” as defined in Section 2(h) of the RTI Act. It follows that any requirement in the nature of precondition and restrictions prescribed by any other law would continue to apply and are to be satisfied before information can be accessed and asked to be furnished by a private body.

21. What is explicit as well as implicit from the definition of “information” in clause (f) to Section 2 follows and gets affirmation from the definition of “right to information” that the information should be accessible by the public authority and “held by or under the control of any public authority”. The word “hold” as defined in Wharton's Law Lexicon, 15th Edn., means to have the ownership or use of; keep as one's own, but in the context of the present legislation, we would prefer to adopt a broader definition of the word “hold” in Black's Law Dictionary, 6th Edn., as meaning; to keep, to retain, to maintain possession of or authority over. The words “under the control of any public authority” as per their natural meaning would mean the right and power of the public authority to get access to the information. It refers to dominion over the information or the right to any material, document, etc. The words “under the control of any public authority” would include within their ambit and scope information relating to a private body which can be accessed by a public authority under any other law for the time being in force subject to the pre-imposed conditions and restrictions as applicable to access the information.

22. When information is accessible by a public authority, that is, held or under its control, then the information must be furnished to the information seeker under the RTI Act even if there are conditions or prohibitions under another statute already in force or under the Official Secrets Act, 1923, that restricts or prohibits access to information by the public. In view of the non obstante clause in Section 22 [Section 22 of the RTI Act reads: “22. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 1923), and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”] of the RTI Act, any prohibition or condition which prevents a citizen from having access to information would not apply. Restriction on the right of citizens is erased. However, when access to information by a public authority itself is prohibited or is accessible subject to conditions, then the prohibition is not obliterated and the preconditions are not erased. Section 2(f) read with Section 22 of the RTI Act does not bring any modification or amendment in any other enactment, which bars or prohibits or imposes precondition for accessing information of the private bodies. Rather, clause (f) to Section 2 upholds and accepts the said position when it uses the expression — “which can be accessed”, that is, the public authority should be in a position and be entitled to ask for the said information. Section 22 of the RTI Act, an overriding provision, does not militate against the interpretation as there is no contradiction or conflict between the provisions of Section 2(f) of the RTI Act and other statutory enactments/law. Section 22 of the RTI Act is a key that unlocks prohibitions/limitations in any prior enactment on the right of a citizen to access information which is accessible by a public authority. It is not a key with the public authority that can be used to undo and erase prohibitions/limitations on the right of the public authority to access information. In other words, a private body will be entitled to the same protection

as is available to them under the laws of this country.

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28. The expressions “held by or under the control of any public authority” and “information accessible under this Act” are restrictive [CBSE v. Aditya Bandopadhyay, (2011) 8 SCC 497 : 6 SCEC 25] and reflect the limits to the “right to information” conferred vide Section 3 of the RTI Act, which states that subject to the provisions of the RTI Act, all citizens shall have the right to information. The right to information is not absolute and is subject to the conditions and exemptions under the RTI Act.”

18. Thereupon, the Constitution Bench of the Supreme Court, in the case of **CPIO vs. Subhash Chandra Agarwal** (*supra*), quoted the abovementioned paragraph Nos.61 to 63 of its judgement in the case of **CBSE and another vs. Aditya Bandopadhyay and others** (*supra*) and thereafter, approved the said observations in the following manner:

- “41. Para 63 quoted above has to be read with our observations on the last portion of clause (f) to Section 2 defining the word ‘information’, albeit, on the observations and findings recorded, we respectfully concur. For the present decision, we are required to primarily examine clauses (e) and (j) of sub-section (1) to Section 8 and Section 11 of the RTI Act.”

19. The said position of law was subsequently followed by a learned Single Judge of the Delhi High Court in the case of **TRAI vs. Akshay Kumar Malhotra** (*supra*). After referring to the aforementioned judgements of the Supreme Court, the Delhi High Court, in its said judgement, observed as follows:

“13. The Supreme Court in the case of **CBSE and another vs. Aditya Bandopadhyay and others** (*supra*) held that a public authority is obligated to disclose only the information it possesses or controls. It is neither required to collect information from a private entity, nor to compile or create information to satisfy an RTI applicant. Applying this principle, the petitioner is under no legal obligation to collect, compile, or generate the information sought by the respondent, which is neither a part of their records nor statutory functions.”

20. We also find that the CIC itself, in various orders brought to our notice after the Supreme Court clarified the said position of law, passed orders in line with the said position of law and declined to issue any direction to the public authorities like SEBI, to obtain information from third parties like BSE, to provide information to the applicants under the provisions of the RTI Act.

21. We are of the opinion that in the light of the Supreme Court having deliberated upon the common question that has arisen for consideration in these writ petitions, there is no alternative but to hold that the impugned orders passed by the CIC in these cases, cannot be sustained and that they deserve to be set aside.

22. A perusal of the main order dated 25.05.2009 passed by CIC, in the case of Shri Bhoj Raj Sahu vs SEBI, impugned in Writ Petition No.1710 of 2009, shows that according to CIC, any information in the hands of a private body, accessible under law by a public authority, is rendered accessible to an applicant under the provisions of the RTI Act. It is upon the said conclusion reached by the CIC that directions have been issued in the impugned orders to SEBI for obtaining information from a third party like BSE and to provide the same to the applicants within stipulated period of time.

23. We find that the said reasoning of the CIC is in the teeth of the position of law clarified by the Supreme Court and therefore, it cannot be sustained and the impugned orders deserve to be quashed and set aside. Although the applicants under the RTI Act, who are respondents in these petitions, despite service of notice, have not appeared to contest these petitions, we find that since the position of law is clarified by the Constitution Bench of the Supreme Court in the aforementioned judgement in the case of **CPIO vs. Subhash Chandra Agarwal** (*supra*), the writ petitions deserve to be allowed and the orders impugned in these writ petitions deserve to be quashed and set aside.

24. In view of the above, all the writ petitions are allowed and the orders passed by the CIC, impugned in these writ petitions, are all quashed and set aside.

25. Rule is made absolute in above terms.

26. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)