

Murugappa (Murgie) Krishnan

2020

TO --

Shri Bimal Julka, Information Commissioner
CENTRAL INFORMATION COMMISSION
Room 304, III Floor, CIC Bhavan
Baba Gangnath Marg, Munirka, NEW DELHI 110067

Dear Sir/Madam:

Subject: Second appeal under RTI Act (2005), now referenced as
File No. CIC/SEBIH/A/2017/139953

Ref – My RTI query to SEBI dated 30th December 2015, and the SEBI
CPIO's response CPIO/AKS/NK/3-2016/2347 dated 29th January
2016, my first appeal to SEBI dated 24th Feb 2016, and
the SEBI FAA's response, Order No. AAO/2376/RTI/03/2016, dated
21st March 2016, received only on 7th April 2016.

Dear Shri Bimal Julka:

1. The notice of the hearing on Monday, 2nd March, 2020, was received by me from the Registrar, Shri K. L. Das on email only today, Thursday, 27th February, 2020. So it is impossible to file any additional submission a week in advance of the hearing. Accordingly, I am doing the best in the circumstances, filing as soon as I can, and sending a copy of this to the SEBI CPIO, so that he will also be aware of this.
2. Because it is physically impossible to suddenly present myself in Delhi in 2 days, and your office will not permit me to participate via Skype or Zoom – it is as usual not even reachable -- I am asking a friend Ms. Vineeta Bajaj, who works at Cambridge School in Delhi, to attend in my stead. If possible I will also seek someone to help her record the hearing. ***RTI rules permit recording of the hearing. I need the recording to know if there will be even a remote semblance of a well-ordered hearing the coming Monday.***
3. The crux of the matter is that this (very stale) FII trading data is data SEBI now makes available as a result of a response to a parliamentary query by then Rajya Sabha member Shri Shyam Benegal. We have no quarrel with masking the

identity of the FII, if that is indeed intended to preserve privacy. Other regulators round the world also do so.

The difficulty we have is with SEBI arbitrarily changing the masks every month, which was never contemplated by Shri Benegal, and is not done by any other regulator in the world. It makes the data much less useful for academic research.

4. The arguments that the SEBI CPIO and FAA have given (by previous occupants of these positions, not the current occupants) borders on ridiculous, **especially given the Supreme Court judgment of 16th December 2015 relating to various RTI queries associated with various regulatory authorities**. These have been detailed in the original submission to you, and so let me brief here.

- The regulator holds the data not in a fiduciary capacity **but only because of a legal mandate**. To claim fiduciary responsibility as an excuse for not disclosing is not maintainable, per the plain language in the Supreme Court judgment.
- **The regulator is required to serve the public interest**, and not maximize the welfare of the regulatees even at the expense of the public interest, again per the Supreme Court judgment.
- **Academic research into financial markets is regarded throughout the world as serving the public interest**, as one pillar in an edifice of checks and balances. Everywhere in the world research into how traders behave is considered germane to learning how to make markets more efficient. (E.g. Historically, the theory of investor behavior in the face of risk was advanced by a study of archival portfolio data of many individuals, who combined bank accounts, debt and equity in their portfolios.) Only SEBI has declared its role to be to deny any advancement of that knowledge.

As it happens this data is quite innocuous. No one can ever go to jail on the basis of evidence generated from this masked and stale market data.

- **Arbitrarily changing the masks makes the data misleading**. It has led to academics and PhD students making mistakes as most naturally assume that the data is masked, but not that the mask is often changed, which is not done anywhere else by any other regulator. **To provide data that intentionally misleads is a violation of the RTI Act**.
- If SEBI does not wish to give us a dictionary or a rule that will allow us to unravel

changes in the mask (not the original mask, which we accept) **it can simply keep the mask stable**. This will be sufficient to preserve privacy. Since the data is in an Oracle data base the resources required to do this are trivial. (SEBI can't invoke Section 7(9) – “great burden on resources” – to escape disclosure.) It is a simple software task that can be accomplished in less than 5 minutes. **We will be quite happy with this alternative way of addressing our original request.**

- In its own functions related to insider trading and block trades, SEBI requires many large FII trades to be treated as deemed insider trades and hence reported **without any anonymity**. Privacy is clearly not a consideration there. So this practice with respect to the data released because of the agreement with Shri Shyam Benegal, of changing masks, is extremely perverse. **It constitutes a violation of the public interest by deliberately making the data less useful.**
5. We humbly request you and the current SEBI officials to **at least show a little respect to the Supreme Court judgment of 16th December 2015**. And to help desi academics who work as it is under huge data constraints.

Sincerely,

Murugappa Krishnan

Murugappa Krishnan Summit, NJ, USA 27th February 2020

CC – CPIO and FAA of SEBI, Shri Bimal Julka (E-mail : -
[REDACTED], Shri K. L. Das [REDACTED])