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## The Role Of Sebi As A Regulatory Authority In Capital Market With Reference To Indian Legal System – An Analysis

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### I. ABSTRACT

This article analyzes the role of the Securities and Exchange Board of India (SEBI) as a regulatory authority in the Indian capital market, emphasizing its significance in ensuring market integrity and protecting the interests of stake holders. Established through an Act of Parliament, the SEBI Act of 1992, has evolved to regulate various market participants, including stock exchanges, brokers, investors and institutional investors. The article outlines the historical context leading to SEBI's formation, highlighting the legislative framework that governs securities markets in India. This article explored SEBI's multifaceted functions, including oversight of trading practices, enforcement of regulations to curb malpractices, and alignment with international capital markets. The study also examines specific regulatory actions taken by SEBI to address market manipulation and ensure compliance with securities laws. Despite its achievements, the article acknowledges challenges faced by SEBI in adopting technological advancements and evolving market dynamics. The conclusion emphasizes the need for ongoing research and policy development to enhance SEBI's effectiveness in safeguarding interests of all stake holders and maintaining a robust capital market environment in India.

The aim of the article "The Role of SEBI as a Regulatory Authority in Capital Market with Reference to Indian Legal System" is to analyze and highlight the significance of the Securities and Exchange Board of India (SEBI) in regulating the Indian capital market.

The object of the article is to trace out the historical development of SEBI highlighting the legislative framework that governs its operations and also discussing specific regulatory actions taken by SEBI to curb malpractices, identifying challenges faced in adopting technological advancements and evolving market dynamics and maintaining a robust capital market framework.

In conclusion, the article comprehensively examines the role of the Securities and Exchange Board of India (SEBI) as a regulatory authority in the Indian capital market. It highlights SEBI's establishment, its evolution, and the legislative framework that underpins its operations. The findings indicate that SEBI plays a crucial role in ensuring market integrity, protecting investor interests, and curbing malpractices through stringent regulations and proactive enforcement actions. The article also emphasizes the challenges SEBI faces in adapting to technological advancements and evolving market dynamics. By fostering a transparent and efficient capital market, SEBI contributes significantly to India's economic growth and aligns with international Capital Market. The study calls for further research to enhance SEBI's effectiveness and adaptability in an ever-changing financial landscape, ultimately aiming to safeguard the interests of all stakeholders confidence and promote sustainable development in the capital markets.

**II. KEYWORDS:** Stock Exchange Board of India (SEBI), Collective Investment Scheme (CIS), Nature of Prosecution, Contents of offer document, Securities Appellate Tribunal (SAT)

### **III. AIM AND OBJECTIVE:**

**AIM:** The aim of the article "The Role of SEBI as a Regulatory Authority in Capital Market with Reference to Indian Legal System" is to analyze and highlight the significance of the Securities and Exchange Board of India (SEBI) in regulating the Indian capital market.

**OBJECTIVE:** The object of the article is to trace out the historical development of SEBI highlighting the legislative framework that governs its operations and also discussing specific regulatory actions taken by SEBI to curb malpractices, identifying challenges faced in adopting technological advancements and evolving market dynamics and maintaining a robust capital market framework

### **IV. INTRODUCTION:**

Any Country Globally either developed, developing or underdeveloped to put the economy on the right track the government should follow some regulations in regulating the Capital Market/Financial Market. For any country to develop and compete with other developed countries the country should have solid economic policies coupled with stringent financial discipline, else no country will prosper. After independence in India, the successive Governments have taken measures to put the Capital Market in a proper path and stringent measures to control the flow of finance so that the amount that has come into the Capital Market will be disbursed properly for the development and welfare of the state. In this regard, the successive Government of India have taken many steps, enacted many laws in this regard framed rules for implementing the same and also established different wings to administer, to supervise and to control the activities and to curb illegal market/financial market through stringent laws so that the guilt can be punished with exuberant monetary penalties including punishments.

One such activity by the Government of India is to control the Capital Market to safeguard the interests of the investors either individuals or companies who have come forward to invest in the Capital Market for gains, the establishment of Stock Exchange Board of India (SEBI) is one such enactment. The establishment of SEBI through an act of parliament has brought lot of changes in the Capital Market by controlling their functions and showing the right path for the investors and curb the malpractices and also by making amendments from time to time as per the situation because Capital Market is always fluctuating depends not only on internal environment but also Global Changes.

The role of SEBI in addition to controlling the Capital Market in India is also having the other function of aligning with International Capital Market with whom our country is aligned. In this article, an attempt is made to focus on the role of SEBI on the Capital Market in which the number of players like Stock Exchanges, Brokers, Sub Brokers, Intermediaries, Corporate Houses, Individual Investors, Mutual Funds, Venture Capital Funds both Indian and International Securities, Bonds, Debentures and such other Instruments and activities that are connected with Indian Capital Market.

After the introduction of SEBI through an Act of Parliament, SEBI has taken major and lead role in controlling the functions of Financial/Capital Market/Currency Market so as to make the Capital Markets can function and deliver the desired results.

## **V. LITERATURE REVIEW:**

In Currency Market, the buyers and sellers of Currency are importers and exporters of goods/commodities/services; when international trade created the demand for currency markets, these imports and exports in the present situation is only 1/32 of Foreign Exchange dealings according to a report by Banks for International Settlements.

No company or Corporate House can run/sustain without borrowing from the currency market either for a long term or short term. These borrowings of each company will choose a method/provision that is suitable to their environment

- a) Mortgaging immovable property such as land, buildings, machinery etc. (fixed assets)
- b) By securing long term loans from financial institutions who are in the financial markets.
- c) By utilizing the loans offered by State and Central Governments for industrial developmental activities that is one of the activities of the government of any country because industrialization gives an opportunity to create employment, boost economy and finally to improve standard of living of the people of that country.
- d) By issuing debentures
- e) Obtaining loans from money lenders or banks (indigenous or commercial concerns).

In addition accepting the loans in the form of deposits from the public for a fixed period by paying interest; obtaining loans by creating charge on the property and assets of the company.

In addition, the borrowers are borrowing loans from Banks in the form of cash credit, overdraft, loans discounting of bills of exchange.

In addition the borrowers in the Capital Market will also borrow the money from Public Financial Institutions and also governmental bodies who are having surplus funds and ready to lend the amount to the needy for gains.

## **A. The evolution of SEBI (Securities Exchange Board of India):**

With effect from such date as the Central Government may by notification, appoint, there shall be established, for the purpose of this Act, a Board by name of the Securities Exchange Board of India. This Board shall be a body corporate by the aforesaid name, having perpetual succession and a common seal with power subject to the provisions of the Act, to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name, sue to be sued. The head office shall be at Mumbai having regional offices at Delhi, Kolkata, and at Chennai and Northern, Eastern and Southern Centres. The Board will have a Chairman, two members among the officials of the Ministry of Central Government dealing with finance and administration. One member from amongst of the officials of RBI and 5 members of whom, atleast 3 shall be the whole time members to be appointed by the Central Government. Before the establishment of SEBI Act, 1992, there are three principles acts governing the securities market are,

- a) The Capital Issues (Control) Act, 1947, which restricted issues, access to the securities market and controlled the pricing of issues.
- b) The Companies Act, 1956, which sets out the code of conduct for the corporate sector in relation to issues, allotment, and transfer of securities and discloses to be made in public issue.

- c) The securities contract (Regulations) Act, 1956, which provides for regulation of transaction in securities through Control over Stock Exchange.

In addition to above three principle acts, the other acts namely,

- a. Public Debt Act, 1944
- b. The Income Tax Act, 1961
- c. The Banking Regulations Act, 1949

All these above mentioned Acts that are enacted in Parliament are having bearing on the working of the securities market. To make all these Acts, Rules and Regulations into one tag so as to make a comprehensive Act, the self regulated Stock Exchanges were brought under statutory regulations through the passage of,

*“Securities Contract (Regulations) Act, 1956, that provides for direct and indirect control of virtually all aspects of trading of securities and the running of the Stock Exchanges.”*

The Government of India to control the Capital Market passed an Act in Parliament called *“the Securities Exchange Board of India Act, 1992”*, and it extends to the whole of India. It shall be deemed to have come into force on 30<sup>th</sup> day of January, 1992. The Act contain 35 sections, and section 3, 45 & 46 deals with the establishment of SEBI.

These one of the major developments of the Indian Stock Market and deserves a particular mention was the establishment of Securities and Exchange Board of India on the lines of Securities and Investments Board of UK. In fact, SEBI was established on 12.04.1988 is required to take historic view of the Indian Securities Market. The stringent advances in the Capital Market activities and the growing complexities of the market related to problems have necessitated to emergence of SEBI.

For this Act, the other Acts namely, the Capital Issues (Control) Act, 1947 was replaced in May, 1992 with this Act, enabled the government's control over issues of capital, pricing of issues, binding up premia and rates of interests and debentures seized.

Indian companies were allowed to access to international capital market through the issue of ADRs and GDRs. However to ensure effective regulation of the market, SEBI which was established in 1988 has been given a large status, as a supervisory body in 1992 by exacting the SEBI Act, 1992 with statutory powers to regulate the securities market.

A reading of the past records and decisions taken by SEBI, SAT and Hon'ble Supreme Court are mentioned hereunder.

Between 1992-93 to 2009-10 SEBI has undertaken 1359 cases for investigation and 1264 cases are investigated in completion. SEBI also has taken action on the cases where the investigation is completed and the guilt is identified. During these investigations and subsequent Orders from the Appellant Tribunals many pit falls have been identified by SEBI and such Pit Falls are redressed with suitable amendments and regulations so that the environment can be still tightened so that no irregularities are made repeatedly. During their investigations on the grievances brought to their notice SEBI indicated that,

*“Technology and newer methods are being used by violators of Securities Laws to conduct their business in the Securities Market. The cases that are referred to investigation department of SEBI, significant increase in the number of cases with alleged front running has been observed for the last few years.”* These front running cases involves, *“leakage of information from the source such as the Institutional Client Desk of Brokers/Traders, handling such institutional orders, a proper investigation in to these cases should help to put in place of strengthen the existing system and procedures, so that the possibility of such institutions becoming source for leakage of information reduced in future.”*

In a couple of cases Market Manipulation, use of large number of front entities/videly distributed network of persons/entities were found to be doing unfair and fraudulent trade practices in the market. In view of the urgency to protect genuine investors from such manipulations, SEBI invoked powers under the SEBI Act and thus issued necessary directions to prevent damage to the integrity of the Securities Market and the investors. These cases highlight the importance of,

*“An effective customer due diligence regime, a thorough, in person, verification process and continuous monitoring of transaction by the registered intermediaries. As an example in one such case of inter regulatory cooperation, on receipt of information about possible manipulation in the books of accounts of a company where purchase/sale amounting to hundreds of crores of rupees was linked to bogus entities, SEBI passed an interim exparte orders,*

*Prohibiting the company from rising any future capital in any manner directly or indirectly whatsoever from the Capital Market till further order”.*

In this case, due to the necessity and urgency of the matter, the SEBI has taken a decision to pass interim orders so as to curb the malpractice and confidence and continue the same further; because unless the interim order is passed the so called malpractice will continue and further damage to the investors and reputation of the securities market, SEBI also ordered a further detailed investigation in the matter.

In Barklay's Bank PLC,

Based on the offshore derivative instruments ODI Reports submitted during the period January 2006 and January 2008 by Barclays Bank PLC, the SEBI ordered.

*“It was observed that it has issued ODI's to UBS AG, with Reliance Communications Limited, Arkong as the underlying, when SEBI sought further information Barclays submitted that upon review, the counter party of the transactions was not UBS AG, as earlier reported by it but the securities limited, (HYTHE) an entirely new entity which did not form part of any of the submissions previously made by Barclay to SEBI from the information submitted by Barclay, it is observed that ODIs which were issued by it to Hythe Securities Limited stated to be issued to UBS AG were onward issued to another entity pluri emerging companies, PCC Cell E Engineering Markets Growth Fund. However, from the ODI monthly reports submitted by Barclays it was observed that there was no mention of any back to back issuance of ODI to any other entity. Barclays stated that error in reporting had occurred due to manual compilation of the ODI reports in December 2006 and error in gate entry level and that after improvements in its system for ODI reporting in 2008-2009, the errors in reporting continued to be carried forward in new system. Barclays had not only failed to provide true, fair and complete details of the ODI activity undertaken by it but also prima facie violated the provisions of FII regulations by furnishing false and incorrect information to SEBI. Full and Fair disclosure forms from the corner stone of FII regulations by SEBI. As a source of fund available with an FII comes from offshore by its very nature SEBI has no direct access to verifying the nature of the funds. In other words SEBI places almost absolute faith and unqualified reliance as the ability of an FII to carry out the basic regulatory and prudential oversight.*

*SEBI as regulatory requires fair, true and correct information for assessing and monitoring FII activity in securities market. When a registration is granted to an FII SEBI presupposes that, the FII has the capacity to exercise the necessary oversight and ensure the integrity and accuracy of the data it provides to SEBI under the regulations applicable. Given that Barclays had provided incorrect reporting, Barclay has been non compliant with the provisions of the FII regulations, accordingly, SEBI directed vide order dated 9 dec, 2009, Barclays Bank, PLS under Section 11 (1), 11(4), 11(B) of the Securities Act, 1992 not to issue/subscribe or otherwise transact in any fresh/new offshore derivative instrument till such time as Barclays solicited SEBI that it has put adequate systems. Processes and controls in plays to ensure true and correct reporting of it ODI transactions to SEBI. Barclays shall furnish a certificate from an Auditor, Quality of International”.*

*In another case Society Generale,*

In another case, the report submitted by Society Generale during the period January 2006 and January 2009 submitted to be SEBI it was observed that Society Generale had issued certain OD/S/PNs to Hythe Securities Limited (Hythe) with Reliance Communications Limited as the underlying. While providing details of all the ODIs/NS entered into with Hythe, Society Generale acknowledged that there had been errors in its reporting to SEBI of transactions with Hythe. Subsequently it was also observed that those ODIs/PNs had been onward issued and that Hythe is not the end beneficiary. Society Generale failed to adhere to “Know Your Client”, it had little or no relevant knowledge of the ultimate beneficiary of the ODIs issued by it. Society Generale failed to provide true, fair and complete details of the ODIs and PNs activity undertaken by it and also Prima Facie violated the provisions of FII regulations by furnishing false and incorrect information to SEBI. Vide an **order u/s 2(1), 2(4) and 2(b)** of the Securities and Board of Exchange India Act, 1992 dated 06.01.2010, SEBI directed Society Generale, a registered FII, not to issue, subscribe or otherwise transact in any new ODIs or T-notes. In India till such time it provides a true and correct reporting of its ODIs and T-notes transactions to SEBI. Further more, even the aforesaid Prima Facie violations, Society Generale was also required to show cause when appropriate proceedings including cancellation of its certificate of registration as Foreign Institutional Investor should not be initiated.

In some of the other cases the SEBI has taken regulatory actions such as,

- i. Regulatory actions against Stock Brokers and Sub Brokers (Sri. Bhadresh Sanghivi (Trade Name: Arihant Investments))
- ii. SEBI Order the matter of M/s. Pinnacle Share Registry Private Limited, SEBI passed an order on 14.08.2009 under regulation 28(2) under SEBI (Intermediaries) Regulations, 2008 cancelling the certificate of registration granted by SEBI to M/s. Pinnacle Share Registry Private Limited (PSRPL) as registrar to an issue share transfer agent with effect from 28.02.2010.
- iii. In another case, SEBI Order in the matter of M/s. Sterling Holiday Resorts (India) Limited, SEBI passed an order dated 10.11.2009 u/s 2(B) r/w section 19 of the Depositories Act, 1996 against M/s. Sterling Holiday Resorts (India) Limited, for failing to dematerialize Rs. 2,99,800/- shares of M/s. Gujarat Industrial Investment Corporation Limited, M/s. Sterling Holiday Resorts (India) Limited was directed to dematerialize the 2,99,800/- share of the company standing in the name of M/s. Gujarat Industrial Investment Corporation Limited, immediately but not later than fifteen days for the date of receipt of this order.

### **Following are some the Regulatory Actions – Prosecution by SEBI – Investigation:**

SEBI has regulatory authority has taken stringent actions in curbing malpractices in Capital Market,

### **Collective Investment Scheme (CIS)**

- i. In the case of SEBI vs M/s. Endowment Forest (I) Limited and others (CC. No. 54/2009), SEBI launched prosecution against Endowment Forest India Limited and its directors alleging violation of Section 12 (1B) of SEBI Act r/w Regulations 5(1), 68(1), 73(1) & 74 of the SEBI (Collective investment schemes) Regulations, 1999, for failure of the entity to obtain regulation for its various CIS Schemes or in the alternative to wind up the schemes and repay an amount of more than Rs. 10.7 lakhs collected from the investors.
- ii. In another case SEBI vs M/s. JBR Forestry Limited and others, in this case, SEBI launched prosecution against M/s. JBR Forestry Limited and its directors alleging violations of section 12(1B) of SEBI Act r/w Regulations 5(1), 68(1), 73(1) & 74 of the SEBI (Collective investment schemes) Regulations, 1999 for failure of entity to obtain registration for its various CIS schemes or in the alternative to wind up the schemes and repay an amount of more than rupees 1.1 lakhs collected from the investors.

## **B. NATURE OF PROSECUTION:**

According to “*Nature of Prosecution*” SEBI launched prosecutions under various sections of different acts such as SEBI Act 1992, Companies Act 1956, Depository Act 1996, Securities Contract (Regulations) Act 1956 and the Indian Penal Code (IPC). As on 31.03.2010 around 1129 cases were launched under the SEBI Act 1992.

In some of the cases the affected parties went for appeals either to the SAT or Hon’ble Supreme Court where they succeeded in getting orders against SEBI and SAT. In some of the cases, SEBI has collected penalties and even prosecuted the erring personnel and companies. In some of the cases, the SAT and Hon’ble Supreme Court confirms the orders passed by the SEBI.

In another case, the Hon’ble Supreme Court set aside the Order of the SEBI and SAT and observed that,

*“NO power is conferred on the Tribunal to travel beyond the areas convened converted by Section 12 and Rule 13 when something is to be done statutorily in a particular way, it can only be done that way only”.*

There is no scope of taking shelter under discretionary power.

In another land mark case,

### **M/s. Varsha Jain Shah vs SEBI and Jain Manobai Shah vs SEBI (Civil Appeal No. 7840/2009 and Civil Appeal No. 7841/2009 – date of order 11/12/2009)**

**M/s. Oasis Media Matrix Limited**, a listed company had been earning marginal profits during the period 2002-2005. The company had reissued forfeited shares. SEBI carried investigations relating to reissue of shares and found that promoters of the company offloaded the reissued shares, which were not listed. It is also found that there was no consideration against the reissued shares. SEBI found that the appellants to have violated regulations 3(a) to 3(d) of SEBI (PFUTP) Regulations, 2003 and were restrained from dealing in Securities for a period of two years vide Order dated 13.02.2008.

SEBI Order dated 14.02.2008 was challenged before Hon’ble SAT in Appeal No. 68/2008, SAT vide Order dated 10.08.2009 dismissed the appeal.

The appellant being aggrieved of the same, filed the above captioned Appeal and the Hon’ble Supreme Court after hearing the counsel for parties was pleased to dismiss the same.

In another case,

### **Shankar Sharma vs SEBI (Civil Appeal No. 37/2010, date of order 01.02.2010):**

The captioned appeal filed against the final order/judgment dated 28.10.2009, passed by Hon’ble SAT in Appeal No. 14/2009. The Hon’ble SAT vide its above mentioned order upheld the order dated 13.02.2009 of SEBI, whereby, *“The Appellant was prohibited from buying, selling, or dealing in securities and associating with the Securities Market in any manner whatsoever for a period of one year for having found guilty of indulging in synchronized trades on a large scale in number of scripts resulting in Artificial creation of volumes and price in various scripts thereby guilty of violating regulations 4(b)(c) & (d) SEBI (PRUTT) Regulations, 1995*

The captioned appeal was listed for admission on 01.02.2010, the Hon’ble Court of hearing the counsel for parties pleased to dismiss the same and declined to interfere with the impugned order.

There are number of cases filed by and against SEBI that have become final in number of Hon'ble High Courts such as,

**1. M/s. Chanchal Jain and others vs SEBI and others before the Hon'ble Delhi High Court (W.P. © 10390/2009 dated 24.07.2009):** In this case, the Hon'ble Court observed that,

*a. "It was contrary to the SEBI Act, as the SEBI Act does not include mutual fund distributors under its purview.*

*b. It extinguishes the right to trade and / or profession of the small individual distributors and is therefore unconstitutional and bad in law. Hon'ble High Court dismissed the writ petition holding that section 11(1) of the Act is very widely worded, Sub Section 2 does not restrict or narrows down the wide scope of sub section 1, sub-section 2 is not exhaustive of the power and authority of SEBI. Under Sub-Section 1, SEBI can regulate payment of commission or state that they shall not be entry load. SEBI is controlling and regulating new issues by mutual fund managers while doing so, they are entitled and empowered to issue circulars in respect of entry load in the new mutual fund".*

The power conferred upon SEBI and Section 11(2)(b) relates to both registration as well as the regulation. It is not possible to accept the contention that without registration of distributors, SEBI cannot control or regulate their working. SEBI is an expert body which is entitled to regulate the market and has now issued circular dated 30.06.2009. In economic matters and matters relating to finance, Court's are reluctant to interfere unless clear violation of Article 14 is made out.

## **VI. DISCUSSION AND ANALYSIS:**

In Cash Market Stock Exchanges (BSE, NSE, MCX etc.) we have multiple roles and activities that include,

*"a. raising capital for business: The Stock Exchanges provide companies with the facility to raise capital for expansion through selling shares to the investing public.*

*b. Mobilizing savings for investment: When people draw their savings and invest in shares, it reaches to a more rational allocation of resources because funds, which could have been consumed or kept in idle deposits with the bank, are mobilized and redirected to promote business activity with benefits for several economic sectors such as agriculture, commerce and industry regulating in stronger economic growth and higher productivity levels of firms.*

*c. Facilitating Company Growth: Companies view acquisition as an opportunity to expand product lines increased distribution network channels, hedge against volatility, increased its market share or acquire other necessary business assets. A takeover bid or a merger agreement through the stock market is one of simplest and most common ways for a company to grow by acquisition or fusion.*

*d. Profit sharing: Both casual and professional stock investors through dividends and stock price increases that may result in capital gain, share in the wealth of profitable business.*

*e. Creating investment opportunities for small investors: As opposed to other business that requires huge capital, investing in shares is open to both the large and small stock investors because a person buys the number of shares which he can afford. Therefore the stock exchange provides the opportunity for small investors to own shares of the same companies as large investors.*

*f. Barometer of the company: At the stock exchange; share prices rise and fall depending upon mainly on market forces. Share prices generally show signs of stability and growth. An economic recession, depression or financial crisis could eventually lead to a stock market crash. Therefore the moment of share prices and in general of the stock can be an indicator of the general trend in the economy.*

g. *Government Capital Rising for development projects: Government at various levels sometimes decide to borrow money to finance various infrastructure projects such as sewage and water treatment works, housing estates etc. by selling another category of securities known as Bonds. These bonds can be raised to the stock exchange where by members or the public by them, thus loaning money to the Government. The issuance of such bonds can be obviate the need, in the short term to directly Tax citizens to finance development through by securing such bonds with the full faith and credit of the government instead of the collateral, the government must eventually tax citizens or otherwise raise additional funds to make any regular coupon payments and referred the principle when the bonds matured.*

i. *Listing and Delisting of Securities of any Public Limited Company: This is one of the major roles played by the Stock Exchange.*

j. *No company shall make an issue of securities unless issue is listed in any Stock Exchange or Exchanges as the case may be and a certificate issued by the Stock Exchange to that effect.*

k. *The other important aspect of the role of the stock exchange is to appoint brokers of the exchange, who are registered with SEBI for the purpose of accepting applications and placing order with the company.*

l. *Every depository should be a member of any stock exchange or exchanges as the case may be.*

m. *Making rules and bylaws: It is the prerogative of any registered Stock Exchange to make rules or amend any rules made by it and to make rules restricting voting rights. A recognized and registered stock exchange may make by-laws for the regulation and control of contracts. The Central Government may direct recognized stock exchange to make any laws or to amend any rules already made.*

n. *No suit, prosecution or any other legal proceedings against the governing body of any stock exchange shall lie for the actions taken in good faith."*

**Listing of Securities – Financial Instruments** are listed under Rule 19 of the Security Contract (Regulations) Rules, 1957 and provides guidelines for listing securities of Public Companies. A public Company desires off setting its securities listed at any registered stock exchange along with the application to submit the following documents like, Memorandum and Articles of Association/Trust deed as the case may be, Copies of all Prospectus, Copies of all other documents, Copies of audited balance sheet for the past five years, entire Copies of all the agreements entered into by the issuer company with various agencies and intermediaries.

They should submit the application through the lead merchant bank appointed for the purpose with requisite application fee. Intimate the stock exchange any other information necessary to enable the share holders to appraise the company for investment. A recognized stock exchange where the application is filed by any person on behalf of any company should examine that such person shall comply with the conditions of the listing agreement with the stock exchange.

Any recognized stock exchange will have the power to delist the securities after recording the reasons on the ground or grounds as may be prescribed under the Act but before doing so such company should be given a reasonable opportunity of being heard. A recognized stock exchange may relax any of the conditions with the previous approval of SEBI in respect of government company within the meaning of section 617 of the companies act, 1956 and subject to such instructions as the board may issue in this behalf from time to time. In addition the companies applying for listing should follow all the conditions, and rules and regulations stipulated by SEBI and Government of India in letters of allotment, letters of regrets, rights issue, detailing allotment of shares to the concerned personnel and organizations etc.

There are so many functions to be followed while listing and every company has to follow the rules and regulations framed by SEBI and other government directions. Brokers and sub brokers are also subjected to Securities Exchange Board of India (Stock Brokers and Sub Brokers) Rules, 1992 and any deviation by them

from the said rules and regulations are liable for prosecution/suspension or even termination of membership by SEBI.

In addition Securities Exchange Board of India (SEBI) Act, 1992 will issue Certificates of Registration for the Brokers and Sub Brokers to commence their activities. No stock broker or sub broker shall buy any securities in any stock exchange by them or on behalf of third party unless they hold a certificate granted by the Board of SEBI.

The enactment of Securities and Exchange Board of India is a major development in the Indian Stock Market that deserves a particular mention which was developed on the lines of Securities and Investment Board, UK. Though SEBI was established on 12.04.1988 it came into existence only in 1992.

The SEBI Act has ample powers to control the Capital Market and the functionaries of which some are mentioned below

*Sections 15k to 15q deal with the establishment of Securities Appellate Tribunal*

*Section 16 is related to issue of directions,*

*Section 17 is related to SEBI,*

*Section 18 is related to submit certain returns and reports,*

*Section 29 deals with rule making powers of SEBI and*

*Section 15u deal with Appellate Powers of SAT”*

#### **A. Objectives of the Act:**

1. Providing fair dealings in the issue of securities and ensuring a market place where funds can be raised at a relatively low cost.
2. Providing a degree of protection to the investors and safeguard their rights and interests, so that there is a steady flow of savings into the market.
3. Regulating and developing code of conduct and fair practices by “intermediaries” in the capital market like Brokers, Merchant Bankers, Registrars to the issues, Market makers with a view to making them competitive and professional.
4. Under section 3 of the act the Central Government constituted a board by the name of SEBI with Headquarters at Mumbai and Offices at Kolkata, New Delhi, Chennai.
5. According to Section 4(i) of the Act, SEBI consists of a chairman, two members for the ministries of Central Government and one member from the officers of RBI and five other members of whom at least three shall be the old time members.
6. Section 11(1) of the Act provides the following main powers to SEBI,
  - a. Regulating the business in the stock exchanges and any other securities in market.
  - b. Registering and regulating the working of stock brokers
  - c. Promoting and Regulating, self regulatory organizations,
  - d. Prohibiting fraudulent and unfair trade practices

- e. Calling for information from, undertaking inspection, conducting enquiries and audits of the stock exchanges, mutual funds and other persons associated with securities, market and intermediaries and self regulating organizations in the securities market.
- f. Protecting the interests of investors in securities
- g. Promoting and developing securities market
- h. Regulating the securities market
- i. Performing such other functions and exercising, according to “Securities Contracts (Regulations) Act, 1956”, as may be delegated to it by the Central Government.

SEBI was given full authority and jurisdiction over the securities under the SEBI Act, 1992.

SEBI Act provides in section 11(c), to investigate the affairs of intermediaries or persons associated with the securities market through investigating authority.

Under Section 12 of the SEBI Act, 1992, intermediaries shall register and obtain a certificate of registration.

Section 15 of the Act, deals with the finance, accounts and audit.

Section 15(a) to 15(q) deals with penalties for various offences and adjudications

Sections 15(k) to 15(z) of the act are dealing with the establishment, jurisdiction, authority and procedure of “Appellate Tribunal” which is established by the Central Government.

According to Section 15(z) of the Act, any person aggrieved by the decisions or order of SAT may file an appeal to Supreme Court within Sixty (60) dys from the date of communication of the decisions or order.

Section 16 of the Act provides power to the Central Government to issue directions.

Section 17 of the Act gives powers to the Central Government to supersede the board if need arises.

The Central Government has power to grant immunity under Section 24(b) of the Act.

SEBI Board has power to make regulations under the Act. Section 18 of the Act provides the responsibility to SEBI to submit the Central Government, the prescribed returns and reports.

SEBI has sent certain proposals to Central Government for amendments to the,

*“Securities Loss, Rules and Regulations”*, so as to make it more effective and investor friendly and the main arm of the SEBI Act is “to protect the interests of the investors and regulate the capital markets and make it orderly”

From time to time many amendments have been made to the SEBI Act to the changed conditions in the Securities Market.

**B. SEBI guidelines on (disclosure) Investors Protection:**

*“SEBI (disclosure) Investors Protection Guidelines 2000 were issued by the SEBI under section 11(g) of SEBI Act, 1992”.*

These guidelines shall be applicable to all public issues to listed and unlisted companies, all offers for sale and rights issues by listed companies whose equity share capital is listed except in case of “rights issue”, where the aggregate value of securities offered does not exceed rupees fifty lakhs.

On the other hand in the case of “rights issue”, where the aggregate value of the securities offered is more than fifty lakhs, the company shall prepare the letter of offer in accordance with the disclosure requirements specified in these guidelines and file the same with the board of its information and for being put on the SEBI website.

**In case of any of the violations of the SEBI guidelines, the Board may in the interest of securities market and interest of the investors may pass the following directions:**

1. a. Directing the persons concerned to refund any money collected under the issue to the investor with or without interest as the case may be.
- b. Directing the persons concerned not to access the capital market for a particular period.
- c. Directing the stock exchange concerned not to list or permit trading in the securities
- d. Directing the stock exchange concerned to forfeit the security deposit, deposited by the issuer company.
- e. Any other direction which the board may deem fit and proper in the circumstances of the case.

Before issuing any directions in any case, the board may give,

*“A reasonable opportunity to the person concerned. If any interim direction is sought to be passed, the board may give post decisional caring to such persons”.*

2. The board may initiate action including for suspension or cancellation of certificate of registration of any intermediaries who fails to exercise due diligence or who fails to comply with the obligations entrusted under the guidelines and who is allowed to have violated any of these guidelines to protect the investor.

3. The SEBI (Disclosure and Investor) guidelines, 2000 as substituted SEBI/CFD/DIL/DIP/14/2005/25/1 dated 25.01.2005, provides the following guidelines towards the protection of investor.

**a. Contents of offer document:**

The prospectus/offer document shall contain all material information which shall be true and adequate, so as to enable the investor to make informed decision on the investment in the issue.

b. The prospectus/offer document shall also contain the information and statements specified and shall as far as possible follow the order in which the requirements are listed.

c. The front, outside cover page of the prospectus shall contain the details of issue.

i. The word Prospectus

ii. The name of the issuer company and its details,

iii. the nature, member, price and amount of the installment offered and the issue size

- iv. Risk factors in relation to 1<sup>st</sup> issue and factors in general and including issuers absolute responsibilities.
  - v. Details of lead merchant bankers who filed the prospectus with the board, registrars to the issue.
  - vi. Issue schedule containing opening and date of closing of the issue.
  - vii. Credit rating and name(s) of stock exchange when the listing of securities is proposed
- d.** General information about the issuer company, its directors, capital structure, objectives of the offering, funds requirement, funding plan, appraisal, schedule of implementation of funds deployed, basis for issue price, tax benefits if any.
- 4.** Particulars relating to industry overview, business overview, business strategy, corporate structure including key management personnel.
- a. Legal and other information containing outstanding litigation
  - b. Other regulatory and statutory disclosures containing authority for issue, eligibility of the issuer company to enter capital market, disclaimer clauses, expert opinion obtained if any date of allotment, date of refund, date of listing on the stock exchange(s), amount to be paid, premium face value.
  - c. Description of the equity shares and terms of articles of association:
  - d. An abridged prospectus along with application with all the above particulars in abridged form.
- 5.** Financial performance of the company, listed ventures of promoters if any, previous public or rights issues if any it should be mentioned.
- 6.** Investors grievances and redressal system should be clearly mentioned so that investor will have full information to take investment decision.
- 7.** Post issue lead merchant bankers redressal of investors.
- a. The lead merchant banker shall actively associate himself with post issue activities namely allotment, refund and dispatch and shall regularly monitor, redressal of investors grievance arising there from by sending them by registered post or certificate of posting.
  - b. Payment of interest to the applicants for delay in dispatch of allotment letters, refund orders as prescribed in the offer document.
  - c. The excess money left in the GSO Bank account should be transferred to investor Protection Fund proportionately, if the shares are listed in more than one exchange and the GSO should be closed.
  - d. For the redemption of the debentures issued, the company shall create Debenture Redemption Reserve and should be redeemed as per the offer document.

**The object of SEBI guidelines in,**

*“Take over activities”*, are to ensure full disclosure about the mergers or take over and to protect the interests of the shareholders / investors, particularly the smaller segment. The main thrust is that public authority should be notified the developments within two days of the happenings.

### **C. Power of Central government under SEBI Act, 1992:**

Under Section 3(i) of the Act, the Central Government shall appoint a board by name Securities Exchange Board of India (SEBI).

The Board consists of a Chairman and five members of which three shall be the whole time members and two members from amongst the officials of the ministry of the Central Government dealing off with financial and administration.

The Central Government shall have the right to terminate the services of any member including the chairman, at any time by giving three months notice or three months salary, if he/she is adjudicated as insolvent or he is of unsound mind or has been convicted of any offences. Central Government may after due appropriation made by parliament, make the Board, grants of such sums of money as the government may think fit for being utilized for the purpose of this Act.

Central Government may prescribe form to maintain proper accounts and other relevant records and prepare annual statement of accounts in consultations with the CAG of India. Central Government shall establish one or more SATs (SEBI Appellate Tribunal)

Central Government may issue directions on question of policies from time to time and the decisions of the central government, whether it is on a question on policy or not shall be final.

At any time Central Government will have the power to supersede the board, that such circumstances exist which render it necessary in the public interest to do so.

Central Government may ask the board to furnish the returns and statement in regard to Securities Market as prescribed by them and the same will be placed before the Parliament.

Central Government may admit an appeal by any person aggrieved by an order of the Board by giving an opportunity of being heard from the appellant before disposing of.

Central Government, from time to time by notification make rules for carrying out for the purpose of this Act. Every rule and regulation made under SEBI Act , 1992 shall be laid, as soon as may be after it is made, before each house of parliament. If any difficulty arises giving effect to the provisions of this Act, the Central Government may, by order, publish in official gazette make such provisions not inconsistent with the Act, as may appear to be necessary for removing any difficulty.

Every order made under this section shall be laid as soon as possible before each house of the parliament.

### **Any violations of the SEBI guidelines Board may take in the interest of the Securities Market and in the interest of the investors may pass following directions:**

1. The board may direct,
  - a. The persons concerned to refund any money collected under the issue of the investor with or without interest as the case may be.
  - b. The persons concerned not to accept the Capital Market for a particular period as per the guidelines.
  - c. The Stock Exchange concerned not to list or permit trading in securities.
  - d. The Stock Exchange concerned to forfeit the security deposit, deposited by the issuer company.

e. Any other directions which the Board may deem fit and proper and the circumstance of each case.

f. However, the Board before issuing any directions may give a reasonable time and opportunity in the person concerned. However, the case of certain cases if any interim order sought to be passed the Board may give post decisional hearing to such persons.

2. The Board in any particular incidents may initiate action for suspension or cancellation of certificate of registration of any intermediaries who fails to exercise or who fails to comply with due diligence the obligations entrusted as per the guidelines who is allowed to have violated any of these guidelines to protect the investor. The SEBI (discloser and investor) Protection Guidelines, 2000, has substituted by SEBI/DIL/DIP/14/2005/25/1 dated 25.01.2005, provides the guidelines for the protection of the investors.

The objectives of SEBI guidelines in take over activities, are to ensured with full disclosure about the merger/takeover so as to protect the interests of the share holders in particular the smaller segment. The main trust is that, *“Public authority should be notified the developments within two days of the proceedings.*

*If there is any violation of the guidelines, the SEBI Board is empowered to take actions such as, by passing suitable direction and/or action against intermediaries. The rules and regulations of SEBI dated 10.06.1986 provides protection for investors to direct all the organizations to open an investor protection fund to meet the claims of investors against defaulter members in accordance with the guidelines issued by the Ministry of Finance, Government of India. This Investor Protection Fund is managed by the Trustees appointed by the SEBI. In this Investor Protection Fund there is a contribution by the members also to the tune of 0.01 or 1 lakh of gross turnover which is debited to their general charge account.*

The SEBI Rules and Regulations provides a detailed mechanism in dealing with the investors grievances and how to protect their interests (monetary) through IPF. There are different applications and procedures that are framed in the SEBI Rules and Regulations to safeguard the interests of the investors. In addition, SEBI (Investor and Disclosure) Protection Guidelines, 2000 u/s 11 of the SEBI Act shall be applicable to all the listed and unlisted companies and all offers for sale and rights issue by listed companies through share capital is listed, except in case of rights where the aggregate values of securities offer does not exceed 50 lakhs. However, in case of rights issue where the aggregate value of the securities offered is less than Rs. 50 lakhs the company shall prepare the letter of offer in accordance with disclosure requirements specified in those guidelines and the same with the board of its information and being put on the SEBI left side.

It is also necessary for any company when going for Public Issue/ Follow on Public Issue a draft prospectus should be filed with SEBI to any merchant banker appointed for the same purpose atleast 21 days prior to filing of prospectus.

The other function of the SEBI is, *“any company prohibited by SEBI from accessing the Capital Market cannot issue any securities”.*

There are many guidelines and many arrangements that are embodied in SEBI Rules and Regulations to address the grievances so as to protect investor's interests through SEBI designed strategies. SEBI is also empowered to build the capacity of investors through Investors education, investors awareness so that, the investor can take informed investment decisions. It is the endeavor of SEBI to ensure that the investor learns investing, obtains and uses information required for investing, evaluate various instruments, utilize opportunities to suit his/her specific goals, ascertain his/her rights and obligations in a particular investment, deals through registered intermediaries, takes necessary precautions and all these functions are looked after by the SEBI Regulations and any deviations the SEBI is empowered to take action on the erring personnel with heavy penalties and at times temporary/permanent suspension of the activities.

SEBI ensure that the market has systems and practices that makes any transaction safe. For this purpose SEBI has taken various measures, such as *“dematerialization of securities, screen based trading system, T+1 rolling settlement amended recently etc. The act of dematerialization of securities has eliminated a large number of investor grievances emanating from servicing of paper based securities (previously) such as bad deliveries of shares, delay in delivery of shares, non transfer of shares are sum of the problems faced by an investor prior to dematerialization. This kind of dematerialization of securities facilitated, account period of rolling settlement to T+1 (recently amended) which reduced settlement risk substantially.”*

SEBI has been taking various measures for the protection of the investors, *“This Memorandum focuses on the investor grievance redressal mechanism available in SEBI, its performance, measures to be taken in recent years for expediting the redressal of investors grievances/difficulties in the present existing system and the improvements planned thereon”.*

SEBI also established dedicated Investor helpline telephone numbers (022-2644918 & 26449199-subject to correction) are available for investors seeking general guidance pertaining to securities markets and to provide resistance in filing grievances dedicated persons who are manning the helpline also guide the investor in filing up the grievances, submission of grievance forms, as well as determining the appropriate authority by their first recourse. SEBI also provided guidance to approach the appropriate authority if the investors grievances are outside the purview of SEBI. Any grievance lodged by any investor is taken up with respective limited company by the SEBI investors grievance cell and continuously monitored till the grievance is solved. When SEBI informs the grievance of investor to that particular company the company is required to respond in prescribed format in the form of “Action Taken Report”. Upon the receipt of the ATR the Sate’s Grievances Cell of SEBI will update the grievances accordingly. In case the response of the company is insufficient/inadequate SEBI will take up follow up action in accordance with the established rules and regulations.

If the grievances are pertaining to stock brokers and depository participants the grievances will be taken up with concerned stock exchanges by SEBI for redressal of the grievances and is being monitored by the concerned departments of SEBI through periodic reports obtained by them.

If the grievances are pertaining to intermediaries, the grievances are taken up with them directly for redressal and are continuously monitored by the concerned departments of SEBI. After the introduction of SEBI and enactment stringent measures are taken by SEBI by timely completing of investigations/grievances from any quarter and effective, proportionate decisive actions are taken by SEBI in case the violations of established security laws for the protection of investors interests, ensuring far transparent and orderly functioning of the securities market. It is also important for SEBI in improving confidence in SEBI and its integrity with respect to security market. In this aspect, it is worthy to note here that,

*“Importance of effective and credible use of investigation is also being understood by IOSCO in its principle for the empowerment of securities regulations.”*

The general possible violations that are identified are *“price manipulation, creation of artificial market, inside trading, capital issues related irregularities, takeover related violations, manipulation of financial results, non compliance of disclosure requirements and such other misconduct in securities market.”*

The SEBI’s process of investigation include,

*“An analysis of Market data (Order and Trade Log, Transaction Statements etc.), static data (KYL Documents), Bank records, Financial results, events around major corporate developments, all detailed records etc.”* and if required interviews of entities.

This elaborate method of investigation is to provide *“to gather evidence and it identify persons/entities behind irregularities and violation so that appropriate and suitable regulatory action can be taken where it is necessary”*.

Outcome of investigation in the form of enforcement which is important, action is a clear signal to the market players to comply with the SEBI laws and expected standards of conduct in the market.

This identification of the mistakes timely action redressal in the form of encouraging the cliental who addressed their grievances to SEBI and action taken thereof are making Indian Capital Market better place for investments globally. This kind of inherent powers given to SEBI which has to follow measures so that the guilt can be punished and protecting the innocents.

Outcome of investigation in the form of enforcement action is a clear signal to the market players to comply with the SEBI laws and expected standards of conduct in the market.

From time to time in accordance with the principles laid down by the government and the environment in the Global Capital Market SEBI use to take new measures to strengthen the Capital Markets so that no unlawful elements can enter the well knitted Indian Capital Market so as to make it one of the best investments platforms globally.

Recently SEBI has taken number of measures and introduced new rules called ASM to trade regulations; such as

a. SME IPO is a

*“Small and Medium Enterprise IPO, Stock exchanges offer SMEs a lateral entry into the stock market through SME IPOs. It is an opportunity for promoting companies to attract investments. An SME IPO is a way for a privately owned small and medium enterprises (SME) company to sell its shares to the public for the first time and got listed at BSE SME or NSE emerge platform. Companies with minimum post issue capital of Rs. 1 crore and a maximum of 25 crores are eligible IPO”*.

b. IPO (Initial Public Offer) is a process by which a private company can go public by sale of its stocks to general public and that it could be a new young company or an old company which decides to be listed on an exchange and hence those public. IPO help a company raise money to the issue of public shares.

However under these new rules, *“Additional surveillance Measures (ASM) and Trade – to – Trade (TtoT) Regulation will now apply to companies in the SME segment. This decision by SEBI has made after deliberations with stock exchanges because these rules previously used to apply to main board companies only”*.

ASM which standards for *“Additional Surveillance Measures, is a method or measure of Additional Security placed on shares. ASM is an initiative by the Stock Market regulator SEBI and Stock Exchanges. It is implemented to safeguard the interests of investors. ASM concerns are based on parameters like price, volume and volatility changes. There are two types of ASM namely Long Terms (ASM) (LT-ASM) and Short Term (ST-ASM)”*.

ASM list means that the exchange is warning investors about unusual price movements in that stock. This step aims to reduce or control the volatility in that particular stock.

Let us dwelve into the T to T framework:

*“T to T or Trade-to-Trade is a regulatory framework. It is used to monitor and control the trading of shares, especially those with excessive speculation or liquidity. In the T-to-T segment, Trading cannot happen, meaning we can only either buy or sell in a day.”*

In the year 2023, SME Company IPOs have gained significant traction. In the words of Arun Mantri, the founder of Mantri Fin Mart believes that,

*“There is significant speculation in a SME Company Stocks because they tend to be illiquid and often have no circuit limits. With the implementation of new rules by SEBI such speculation may decrease. It is possible that more regulations may be introduced for this segment in the future.”* (Smart Investor Guide, October 2023 published by SHIL)

#### **D. SECURITIES APPELLATE TRIBUNAL (SAT):**

Securities Appellate Tribunal (SAT) is formed as a statutory body as per the provisions of Section 15(k) of the SEBI Act, 1992, where orders passed by the SEBI are appealed, heard and resolved.

Every appeal shall be filed within a period of Forty Five (45) days from the date on which a copy of the order against which the appeal is filed, is received by the appellant, provided that the appellate tribunal may entertain an appeal after the expiry of the said period or Forty Five (45) days if it is satisfies the Appeal Rules and Regulations.

SAT means “*Securities Appellate Tribunal*” is a statutory body that hears and disposes off Appeals against orders passed by the Securities and Exchange Board of India (SEBI) or other bodies. The aim of SAT is,

*“To dispose of appeals as quickly as possible and to finalize them within six months of receiving the appeal”.*

SAT (Securities Appellate Tribunal) is an appellate authority to receive appeals on SEBI Orders by either of the party to give their orders. The appeals filed before the SAT u/s 1 shall be dealt with by it as expeditiously as possible within six months from the date of receipt of appeal.

#### **Following are some of the important investigation cases by SEBI, Appeals to SAT and further appeals to Hon’ble Supreme Court:**

There are several landmark judgments by the Supreme Court of India regarding the Securities and Exchange Board of India (SEBI), which is the regulatory authority overseeing the securities market in India. Some of these landmark judgments include:

1. **Securities and Exchange Board of India vs. Sahara India Real Estate Corporation Ltd. & Others (2012):** In this case, the Supreme Court ruled against Sahara Group and directed it to refund around ₹24,000 crore to its investors. This judgment had significant implications for SEBI's role in investor protection and regulating collective investment schemes.
2. **Securities and Exchange Board of India vs. Pan Asia Advisors Ltd. & Others (2015):** This judgment dealt with insider trading regulations. The Supreme Court clarified and reinforced SEBI's authority to regulate insider trading and upheld SEBI's regulations in this regard.
3. **Securities and Exchange Board of India vs. Price Waterhouse Coopers (2018):** This case involved the role of auditors in corporate governance and their liability in cases of financial fraud. The Supreme Court upheld SEBI's ban on Price Waterhouse Coopers (PwC) entities from auditing listed companies for a specified period. This judgment underscored SEBI's efforts to strengthen corporate governance standards.

4. **Securities and Exchange Board of India vs. Rakhi Trading Pvt. Ltd. (2019):** In this case, the Supreme Court clarified SEBI's jurisdiction over fraudulent and unfair trade practices in the securities market. The judgment reinforced SEBI's authority to take action against entities engaged in market manipulation and fraudulent activities.
5. **Securities and Exchange Board of India vs. Amit Kumar Singh (2020):** This judgment highlighted SEBI's powers to penalize individuals for violations of securities laws. The Supreme Court upheld SEBI's order imposing penalties on an individual for insider trading activities, emphasizing the importance of strict enforcement of securities regulations.

These landmark judgments have played a crucial role in shaping the legal framework governing the securities market in India and defining SEBI's regulatory powers and responsibilities. However, it's essential to note that there may have been further developments or additional landmark judgments since my last update, so it's advisable to consult more recent sources for the latest information.

The Supreme Court of India has delivered several landmark judgments that have shaped the powers and functions of the Securities and Exchange Board of India (SEBI).

Here are some notable examples:

- **SEBI's Authority and Power:** The court has upheld SEBI's role as the final authority in deciding securities violations and related matters. This strengthens SEBI's role in ensuring corporate governance and market regulations [SC judgment gives Sebi final say on securities violations: Law firms - Business Standard].
- **Scope of SEBI's Powers:** While upholding SEBI's authority, the court has also cautioned against a "hyper-technical" approach. For instance, in a specific case, a penalty imposed for a minor technicality related to voting rights was struck down [10 Landmark Corporate and Securities Case Laws | 2022 | Expert Analysis and Explanations - Taxmann].
- **Appellate Jurisdiction:** The court has clarified the extent of its own appellate jurisdiction over SEBI's decisions. Generally, appeals are restricted to questions of law, not factual determinations made by SEBI [Landmark Judgments on SEBI By Supreme Court & High Courts in 2022 PART I].
- **SEBI's Delegated Powers:** The court has validated SEBI's delegation of adjudicatory and quasi-judicial functions to its full-time board members [Landmark Judgments on SEBI By Supreme Court & High Courts in 2022 PART I].



These are just a few examples, and you can find a more exhaustive list of SEBI-related judgments.

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Landmark Judgment Summaries | Supreme Court of India | India

## Landmark Judgment Summaries

2024 ▼

Serial Number	Date of Judgment	Cause Title/Case No.	Subject
1	13-09-2024	ARVIND KEJRIWAL vs CENTRAL BUREAU OF INVESTIGATION  Crl.A. No. 3816/2024	Whether the arrest of Mr. Arvind Kejriwal was legal and is he entitled to bail in the CBI case
2	20-08-2024	IN RE: ALLEGED RAPE AND MURDER INCIDENT OF A TRAINEE DOCTOR IN R.G. KAR MEDICAL COLLEGE AND HOSPITAL, KOLKATA AND RELATED ISSUES vs  SMW(Crl) No. 2/2024	Urgent need to formulate institutional safety measures for medical professionals following the murder and alleged rape of a doctor in Kolkata.
3	20-08-2024	IN RE: RIGHT TO PRIVACY OF ADOLESCENTS vs  SMW(C) No. 3/2023	Use of judicial discretion when quashing rape conviction under IPC and POCSO
4	14-08-2024	MINERAL AREA DEVELOPMENT AUTHORITY ETC. vs M/S STEEL AUTHORITY OF INDIA .  C.A. No. 4056-4064/1999	Whether the judgment in Mineral Area Development Authority v. M/S Steel Authority of India should be given prospective effect.

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Landmark Judgment Summaries | Supreme Court of India | India

Serial Number	Date of Judgment	Cause Title/Case No.	Subject
		Crl.A. No. 451/2019	bribes in connection with their vote in Parliament or a state legislature.
24	29-02-2024	HIGH COURT BAR ASSOCIATION ALLAHABAD vs THE STATE OF UTTAR PRADESH  Crl.A. No. 3589/2023	Whether interim orders passed by High Courts automatically expire after six months.
25	20-02-2024	KULDEEP KUMAR vs U.T. CHANDIGARH  C.A. No. 2874/2024	Challenge to the mayoral elections of the Chandigarh Municipal Corporation.
26	15-02-2024	ASSOCIATION FOR DEMOCRATICS REFORMS vs UNION OF INDIA  W.P.(C) No. 880/2017	Challenge to Electoral Bonds scheme.
27	08-01-2024	BILKIS YAKUB RASOOL vs UNION OF INDIA  W.P.(Crl.) No. 491/2022	Challenge to the remission orders passed by the State of Gujarat releasing individuals convicted of gang rape during communal rights.
28	03-01-2024	VISHAL TIWARI vs UNION OF INDIA  W.P.(C) No. 162/2023	Plea challenging SEBI's investigation into the Adani Group and seeking constitution of Special Investigation Team (SIT).

<https://www.sci.gov.in/landmark-judgment-summaries/>

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## **VII. CONCLUSION:**

Securities and Exchange Board of India has been established the principle object of protecting the interest of investors (individuals/organizations) in Securities Market, and also it is mandatory for SEBI to promote the development and to regulate the Securities Market. When an investor comes forward to invest in Securities Market normally it is understood that,

- a. Investor knows how to invest
- b. And that the Market is safe and there are NO miscreants and
- c. There are provisions to redress the grievance.

This article provides an insight that investor/s protection strategy adopted by SEBI in their Rules and Regulations are,

1. Developing the investors through education and awareness so as to take timely and proper investment decisions.
2. Disclosure based regulatory regime adopted by SEBI enabling every detail relevant for investment in public domain. SEBI made it mandatory to all the issuers and intermediaries to disclose relevant details about the products that are offered and about their activities in addition to market regulations so as to take better decisions regarding the investment by the investor. SEBI has the necessary mechanism to monitor the same.
3. Some of the measures taken by SEBI such as dematerialization of securities, share based trading system, T+1 rolling settlement has made the investors grievances such as bad deliveries of securities, delay/non transfer of shares and settlements, risk because of T+1 rolling settlement etc.
4. SEBI's comprehensive mechanism in regulating the securities market is also helping investor to address the problems against intermediaries and listed companies.
5. Any grievances received by SEBI from the investors SEBI follow up mechanism will enable to get the grievances resolved at the earliest possible time with reminders and follow up actions and appropriate enforcement actions like, adjudication, prosecution proceedings, directions etc. as per the enforcement provisions of the law if the investor's grievances are not satisfactory. SEBI has also a mechanism of comprehensive arbitrations system in stock exchanges and depository participants. In addition SEBI has also instituted Investor Protection Fund (IPF) in all the exchanges that were registered with SEBI to compensate investors where a broker is declared defaulter. Depository indemnifies investors for loss due to negligence of depository or depository participants. In this connection, it is noteworthy to mention a recent report released by,

SEBI disclose that it realized a disgorgement and unlawful gain of Rs. 30 crores and so far disbursed Rs. 20 crores among investors who lost out in the IPO irregularities.

Grievances lodged by investors against listed companies, SEBI will take up the grievances with the companies and continuously monitor the matter till the company submits its ATR (Action Taken Report). Any unresolved grievances where appropriate enforcement actions are necessary SEBI will initiate actions.

The latest SEBI decision taken with respect to applications IPO/FPO, introduction of ASBA (Applications Supported By Blocked Amount) for refund in public issues reduced the grievances of refunds of unsuccessful investors, delay in refund misappropriation of refund money.

SEBI also identified some difficulties in the existing grievances system such as,

1. Centralized data base
2. Previously various grievances data base are maintained at every division by SEBI and at every regional office in addition to the existing database maintained by OIAE realized these number of databases, SEBI introduced “*Centralized System of Database*” so as to maintain redressal status of grievances at various stages so that investors appraisal of status of their grievances made easy.
3. Delay in Redressal: Grievances received either in physical or in electronic form or initially received in SEBI’s inward system and then in OIAE database and then forwarded to concerned departments/division.
4. ROs of SEBI enter the same before their database before processing further having noticed this physical movement of grievances from desk to desk within SEBI resulting in considerable delay between the receipt and final decision causing much delay SEBI has introduced Centralized Database System to minimize these delays.

Some of the other improvements planned and implemented by SEBI are,

Process of upgrading the investors grievances redress mechanism with the introduction of web based, centralized grievances redressal system (Scores). The salient features of this mechanism are

1. Centralized grievances tracking system for the entire SEBI
2. Grievances can be lodged from any grievances office from any where
3. All grievances and action taken report to be in electronic mode
4. Action taken and the current status can be accessed online by the investors and finally
5. Facilitate for online updation of Action Taken Reports.

Introduction of Scores enable the entire process is in electronic mode including ATRs submitted by companies/intermediaries grievances process time will be reduced to minimum; in addition problems of loss/misplacement of records can be eliminated because of electronic mode. The same system is also advantageous with storage, maintenance and revival. It is also advantageous to the investors to minimize the correspondence to update themselves regarding the status of their grievances. For this purpose, National Information Centre (NIC) of Ministry of Information Technology, New Delhi has provided the necessary software for this new system.

These systems before finalizing SEBI has conducted number of demonstrations to make sure that Scores will be the right answer for the investors grievances has commenced for grievances against stock brokers and depository participants from 18.09.2010 and by Nifty and Sensex companies from 12.12.2010.

SEBI also proposed number of amendments to the existing SEBI Act in long back and the proposal was sent to Central Governments for security laws and rules and regulations so as to make it more effective and investor friendly because the main function of SEBI is to protect the interests of investors and regulate the Capital Market.

Security and Exchange Board of India is an active and leading member of the, “*International Organization of Securities Commissions Organizations (IOSCO)*” which is an assembly of Securities Market Regulations. This Organization is the standard setting body for the World’s Security Markets and promotes international cooperation for sharing of information and providing mutual assistance to their members and SEBI is actively engaged in cooperation with foreign regulators, self regulatory organizations, international financial institutions, International setting bodies and such other international agencies of repute and relevance for development and regulation of Securities Market.

Since India is a member of G20, the implementation of G20 decisions and recommendations in relation to strengthening regulations and supervision of securities market, maintaining financial stability and such other financial sector regulatory reforms and coordinating with Finances Stability Board.

India is also a member of the FSB, SEBI chairman attends meeting conducted by FSB by sending inputs as well as participating in the meetings and conferences organized FSB/MOF in this regard.

SEBI's MOU with Dubai's Financial Services Authority for mutual cooperation and information sharing, Capital Market Collaborative Agreement with Securities Commission of Malaysia to facilitate the development of deeper and broader capital markets, greater cross border activities between the Capital Markets and to attain closure regulatory cooperation in a mutually beneficial manner are some of the achievements of SEBI in International Securities Market. It is always SEBI's endeavour to be transparent to provide the information to the citizens on the issues relating to the functions of the regulatory authority and SEBI also initiated several steps in bringing about greater transparency in dissemination of information by the various intermediaries and details of complaints, arbitration details/orders to make them available on exchanges website.

In this article, an attempt is made to make a comprehensive study relating to the subject, SEBI is a regulatory authority in Capital Market in its totality by providing relevant information, orders passed, actions initiated, taken on erring personnel so as to make Indian Capital Market function smoothly and make India one of the best Securities Market Investment Centre.

An attempt is made in this analysis to an extent that SEBI has a regulatory authority in National Financial and Capital Market and a copartner in International Capital and Financial Market. SEBI has achieved greater heights in Securities market both national and internationally by providing amendments from time to time as the situation demands.

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