

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 21.12.2021

**Misc. Application No. 599 of 2021
And
Appeal No. 413 of 2021**

Mr. Rajinder Singh
Jalan, TR 9/3, Tropicana,
Petaling Jaya, Selangor.

..... Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051.

... Respondent

Ms. Ankita Singhania, Advocate with Mr. Dikshat Mehra, Advocate
i/b Rajani Associates for the Appellant.

Mr. Sumit Rai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra,
Mr. Mayur Jaisingh, Advocates i/b K. Ashar & Co. for the
Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Justice M. T. Joshi, Judicial Member

Per : Justice Tarun Agarwala, Presiding Officer (Oral)

1. The present appeal has been filed against the impugned order
dated March 6, 2020 and addendum order dated March 12, 2020

passed by the Whole Time Member (hereinafter referred to as 'WTM') of Securities and Exchange Board of India (hereinafter referred to as 'SEBI') whereby the appellant has been restrained from accessing the securities market for a period of five years.

2. The ground urged is that the impugned order is an ex-parte order and no opportunity of hearing was provided to the appellant.

3. We find from paragraph no. 18 of the impugned order that the show cause notice was served by affixation at the last known address. According to the appellant, he had shifted from that address 10 years back and is living elsewhere and, accordingly, a show cause notice was never served. This fact has not been disputed by the respondent.

4. Accordingly, we are of the opinion that since the appellant was not served with the show cause notice, he was denied the opportunity of filing a reply or appear before the WTM. Consequently, the impugned order dated March 6, 2020 and addendum order dated March 12, 2020 in so far as it relates to the appellant cannot be sustained and is quashed. The appeal is allowed. The matter is remitted to the WTM to decide the matter afresh after serving a show cause notice and proceeding from there onwards. In this regard, the appellant will appear before the WTM

on January 5, 2022 on which date the show cause notice would be served.

5. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the Registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala
Presiding Officer

Justice M. T. Joshi
Judicial Member

21.12.2021
PTM