
(2023) 08 SEBI CK 0018

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No. 491 Of 2023

Gurpreet Singh Dhillon

APPELLANT

Vs

Securities And Exchange Board Of India

RESPONDENT

Date of Decision : 01-08-2023

Acts Referred:

Citation : (2023) 08 SEBI CK 0018

Hon'ble Judges : Tarun Agarwala, Presiding Officer; Meera Swarup, Technical Member

Bench : Division Bench

Advocate : Vinay Chauhan, Karamveer Singh, Ellora Das, Anubha Rastogi, Mihir Mody, Arnav Misra, Harshvardhan Melanta,

Final Decision : Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order dated April 24, 2023 passed by the Whole Time Member ('WTM' for short) of the Securities and Exchange Board of India ('SEBI' for short) restraining the appellant from accessing the securities market for a period of 6 months.

2. The ground urged is, that the impugned order was passed ex parte without serving the show cause notice and without giving an opportunity of hearing to the appellant. This fact was opposed by the learned counsel for the respondent and accordingly while entertaining the appeal we had directed the respondent to file a reply with regard to service of summons and opportunity of hearing being provided to the appellant.

3. We have heard Shri Vinay Chauhan, the learned with Shri Karamveer Singh and Ms. Ellora Das, the learned counsel for the appellant and Ms. Anubha Rastogi, the learned counsel with Shri Mihir Mody, Shri Arnav Misra and Shri Harshvardhan Melanta, the learned counsel for the respondent and also perused the affidavit filed by the parties.

4. We find that the show cause notice was served at two addresses of the appellant. One address at Chandigarh and one address at New Delhi. The summons sent at New Delhi address returned undelivered and the summons sent at Chandigarh address was purported to have been delivered at that address as per the track report of the post office. It was, thus, urged that the appellant was duly served with the show cause but failed to appear nor filed a reply. In addition to the aforesaid, it was also alleged that the hearing notice returned undelivered and accordingly an advertisement was made in two newspapers in the Delhi Editions as well as in the Chandigarh Editions indicating the date for hearing in the matter. It was urged that in spite of this advertisement the appellant failed to appear and therefore the impugned order was passed ex parte.

5. The appellant contended that he has been residing in Singapore for the past 10 years and therefore the question of receiving the summons or noticing the advertisement fixing the date for hearing did not arise. It was also contended vehemently that the Chandigarh address is not his address or his father's address and that the said address is of his uncle where he never resided.

6. The fact that the appellant is residing in Singapore is supported by various documents filed by the appellant. This fact has not been denied by the respondent. Further, there is no denial of the fact that the Chandigarh address was the address of the appellant's uncle and was not the parental address of the appellant.

7. In view of the aforesaid, we are satisfied that the appellant was not served with the show cause notice or with the notice fixing a date for hearing. We are, therefore, satisfied that the proceedings were ex parte against the appellant which was violative of principles of natural justice.

8. Thus, on this short ground the impugned order insofar as it relates to the appellant cannot be sustained and is quashed. The appeal is allowed. The matter is remitted to the WTM to pass a fresh order in accordance with law after giving an opportunity of hearing and after providing a copy of the show cause notice. In this regard the appellant shall appear before the WTM either personally or through his authorized representative on August 17, 2023 on which date he would be served with the copy of the show cause notice and the matter will proceed from there onwards in accordance with law.

9. 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. Certified copy of this order is also available from the Registry on payment of usual charges.