

(2019) 12 SEBI CK 0001

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No.557 Of 2019

Vipul Mohan Joshi

APPELLANT

Vs

Securities And Exchange Board Of India

RESPONDENT

Date of Decision : 30-12-2019

Acts Referred:

Securities And Exchange Board Of India (Prohibition Of Fraudulent And Unfair Trade Practices Relating To Securities Market) Regulations, 2003 — Regulation 3(a), 3(b), 3(c), 3(d), 4(2)(d), 4(2)(e)
Securities And Exchange Board Of India Act, 1992 — Section 11B, 15I

Citation : (2019) 12 SEBI CK 0001

Hon'ble Judges : Tarun Agarwala, Presiding Officer; M. T. Joshi, J

Bench : Division Bench

Advocate : Vikas Bengani, Vivek Shah

Final Decision : ?Allowed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order dated 30th August, 2019 passed by the Adjudicating Officer imposing a penalty of Rs.5 lakhs

for violation of Regulations 3(a), (b), (c), (d) and 4(2)(d) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair

Trade Practices relating to Securities Market) Regulations, 2003.

2. From a perusal of para 15 of the impugned order we find that proceedings were initiated against the appellant for the alleged fraudulent dealings in

the shares of Shreekrishna Biotech Limited. For the said fraudulent dealing proceedings under Section 11B was initiated by the Whole Time Member

(WTM) who passed an order dated 31st January, 2019 restraining the appellant from accessing the securities market for a period of three years. For

the same fraudulent dealings and for the same investigation period the Adjudication proceedings were also initiated under Section 15I and on the same charges the impugned order was passed.

3. The appellant had earlier filed an Appeal no.105 of 2019 against the order of the WTM dated 31st January, 2019 which order was set aside and the appeal of the appellant was allowed by our judgement dated 7th November, 2019. No further appeal has been filed by the respondent before the superior forum till date.

4. The learned counsel for the respondent further admits that the issue is the same which was dealt by the WTM. Since we have allowed the appeal of the appellant against the order of the WTM and the issue involved is the same we do not see any reason for continuation of the impugned order and consequently with the consent of the parties the appeal is being decided at the admission stage itself without calling for any affidavit as no factual controversy is involved.

5. In the light of the aforesaid, the impugned order dated 30th August, 2019 passed by the Adjudicating Officer in so far as it relates to the appellant is concerned is quashed. The appeal is allowed.