



2025:DHC:11162-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 20.11.2025***

Judgment pronounced on: 11.12.2025

+ LPA 412/2018 & CM APPL. 30368/2018 (Stay)

SECURITIES AND EXCHANGE BOARD OF INDIA

.....Appellant

Through: Mr. Pratap Venugopal, Senior
Advocate with Ms. Sandhya
Kohli, Advocate.

versus

AMIT JAIN

.....Respondent

Through: Mr. Rishabh Jain, Advocate.

+ LPA 550/2018

AMIT JAIN

.....Appellant

Through: Mr. Rishabh Jain, Advocate.

versus

SECURITIES AND EXCHANGE BOARD OF INDIA

.....Respondent

Through: Mr. Neeraj Malhotra, Senior
Advocate with Ms. Sandhya
Kohli and Mr. Nimish Kumar,
Advocates.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.



1. These two cross Letters Patent Appeals, LPA 412/2018 and LPA 550/2018, filed under Clause 10 of the Letters Patent read with Section 5(1) of the Delhi High Court Act, 1966, assail the **Judgment dated 09.07.2018**¹ passed by the learned Single Judge in W.P.(C) 8394/2014, titled “*Amit Jain v. Securities and Exchange Board of India & Anr.*”.
2. By the Impugned Judgment, the learned Single Judge set aside the Show Cause Notice dated 14.11.2013 and the consequential adjudication proceedings on the ground that the appointment of the **Adjudicating Officer**², in the absence of a recorded opinion under Rule 3 of the **Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995**³, was without jurisdiction.
3. As both appeals stem from the same Impugned Judgment, they are being disposed of by this common judgment. For the sake of convenience, clarity, and to avoid repetitive description of party ranks in this common judgment, the Appellant in LPA 412/2018, *Securities and Exchange Board of India*, shall hereinafter be referred to as “**SEBI**”, and the Appellant in LPA 550/2018, *Amit Jain*, shall hereinafter be referred to as “**Petitioner**”.

BRIEF FACTS:

4. The prefatory facts, which are common and germane to the adjudication of both the present Appeals, are set out in brief as follows:

¹ Impugned Judgment

² AO

³ SEBI Adjudication Rules



- I. The Petitioner, Amit Jain, was a shareholder of *Himalaya Granites Ltd.*, a listed company. On 10.10.2011, the **Bombay Stock Exchange**⁴ addressed a communication to SEBI reporting certain transactions undertaken in the shares of the said company. In that communication, BSE indicated that mandatory disclosures required under the **Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997**⁵ and the **Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992**⁶ appeared to have been violated by certain entities, including the Petitioner.
- II. SEBI undertook an internal examination of the said information. The transaction statements of the concerned entities, including that of the Petitioner for the period 01.01.2009 to 15.03.2012, were reviewed. Upon such examination, it was noted that disclosures contemplated under Regulations 13(3) and 13(5) of the PIT Regulations had allegedly not been made by the Petitioner. These observations, along with similar findings against other entities, were placed before the **Group of Assistant General Managers**⁷. In its meeting held on 20.06.2012, the GAGMs recommended that adjudication proceedings be initiated for the alleged violations.
- III. The recommendations of the GAGMs were thereafter placed before the **Committee of Division Chiefs of Surveillance**⁸, which, in its meeting dated 25.06.2012, concurred with the

⁴ BSE

⁵ SEBI SAST Regulations

⁶ PIT Regulations

⁷ GAGMs

⁸ CDCS



recommendations and advised initiation of adjudication proceedings under Section 15A(b) of the **Securities and Exchange Board of India Act, 1992**⁹, for the alleged failure to make disclosures mandated under the PIT Regulations.

- IV. These recommendations were then submitted to the Whole Time Member, Mr. Rajeev Kumar Agrawal, for consideration.
- V. The file was subsequently placed before another Whole Time Member for the purpose of appointing an AO in terms of Section 15-I of the Act and Rule 3 of the SEBI Adjudication Rules.
- VI. Pursuant thereto, Ms. Anita Kenkare was appointed as the AO by Order dated 04.10.2013, and the appointment was communicated on 18.10.2013 by the Executive Director.
- VII. Upon her appointment, the AO issued a Show Cause Notice dated 14.11.2013 to the Petitioner, enclosing the appointment order as well as relevant transaction statements and correspondence. The Petitioner appeared before the AO on 09.01.2014 and thereafter addressed multiple communications seeking information and documents, including details pertaining to the delegation of powers and the basis of the alleged violations. SEBI, by communication dated 26.09.2014, declined to furnish certain information sought.
- VIII. The Petitioner challenged the Show Cause Notice and the appointment of the AO in W.P.(C) 8394/2014 before the learned Single Judge.
- IX. By Judgment dated 09.07.2018, the learned Single Judge held that, in terms of Rule 3 of the Adjudication Rules, the formation

⁹ The Act



of an opinion by the Board that there exist grounds for adjudication under Chapter VI-A of the Act is a mandatory prerequisite for appointing an AO. As no such opinion was recorded by the competent authority, the learned Single Judge set aside the Show Cause Notice and the adjudication proceedings.

- X. Aggrieved thereby, SEBI preferred LPA 412/2018, contending that the learned Single Judge erred in holding that no opinion had been formed. Conversely, the Petitioner preferred LPA 550/2018 seeking affirmance of the reasoning, while raising ancillary issues concerning SEBI's internal process and jurisdiction.

CONTENTIONS ADVANCED ON BEHALF OF SEBI:

5. Learned Senior Counsel appearing for SEBI would submit that the learned Single Judge has fallen into error in setting aside the Show Cause Notice on the premise that the formation of an opinion under Rule 3 of the Adjudication Rules is a condition precedent to the initiation of any inquiry into an alleged violation culminating in the imposition of penalty under Section 15A(b) of the Act. It would be urged that the learned Single Judge incorrectly proceeded on the assumption that such opinion must be expressly recorded at the stage anterior to the issuance of the Show Cause Notice.

6. It would be further contended that the learned Single Judge failed to duly appreciate the scheme and purport of the SEBI Adjudication Rules, and in particular Rules 4 and 5 thereof. He would further contend that these Rules are issued by the Central Government in exercise of the powers conferred by Clause (d)(a) of Sub-Section



(2) of Section 9 of the Act and were the necessary provisions to have been considered.

7. It would be submitted that the act of appointing an AO under the SEBI Adjudication Rules does not, in itself, entail the discharge of any quasi-judicial function. Consequently, at that preliminary stage, there is no statutory requirement for the delegate of the Board to record detailed reasons or to articulate a formal, reasoned opinion. The learned Single Judge, it is argued, conflated the administrative act of appointment with the adjudicatory satisfaction required at a later stage, resulting in an erroneous conclusion. According to the learned Senior Counsel, the omission of the learned Single Judge to engage with the relevant Rules constitutes a manifest infirmity vitiating the Impugned Judgment.

8. He would further contend that the learned Single Judge has, in any event, held that there was no violation of the relevant Rules insofar as he holds that there was no infirmity in the appointment of the AO. In support of the same, he would refer to Para 47 of the Judgment passed by the Hon'ble Supreme Court in **Kavi Arora v. Securities and Exchange Board of India**¹⁰, and contend that all the Rule 4 procedures have been followed. Paragraph 47 of the above-said judgment reads as under:

“47. In this case, the Board was of the opinion that there were grounds for adjudication and accordingly appointed Adjudicating Officer. Adjudicating Officer issued Show Cause Notice to the Petitioner to which the Petitioner gave a preliminary reply and thereafter sought documents as observed above. Inspection of some documents was permitted. After considering the reply, the Adjudicating Officer was of the opinion that inquiry should be held. Accordingly, a notice fixing a date for appearance

¹⁰ 2022 (13) SCALE 411



was issued. There was no procedural irregularity, at least till the stage of notice fixing a date of hearing.”

CONTENTIONS ADVANCED ON BEHALF OF PETITIONER:

9. **Per contra**, learned counsel appearing for the Petitioner would support the Impugned Judgment in its entirety and submits that no interference is warranted. It is urged that the learned Single Judge has correctly appreciated the statutory framework governing the present controversy, particularly the PIT Regulations, which, according to the Petitioner, constitute a complete and self-contained code.

10. Learned counsel would submit that SEBI’s initiation of proceedings was not in consonance with the procedural architecture envisaged under the PIT Regulations, and the learned Single Judge has rightly concluded that no violation of the substantive provisions of the Regulations could be attributed to the Petitioner.

11. Learned counsel would further contend that the entire scheme of the SEBI Act, and particularly Section 11 thereof, underscores the overarching objective of safeguarding investor interests. It would be submitted that any regulatory action must, therefore, correspond to the existence of conduct that demonstrably undermines investor protection. According to the Petitioner, no such prejudice or market impact has been identified in the present matter, thereby negating the very foundation for initiating adjudication proceedings.

12. Learned counsel additionally would submit that the Petitioner does not fall within the statutory definition of an “insider” under the PIT Regulations, and consequently, the precondition for invoking insider-trading-related disclosure obligations was never satisfied. The Show Cause Notice issued to him was therefore inherently without



jurisdiction, and the learned Single Judge has rightly intervened to set aside the same.

ANALYSIS:

13. We have given our thoughtful consideration to the rival submissions advanced by learned counsel for the parties and, with their valuable assistance, have meticulously examined the material placed on record, including the relevant statutory provisions, rules, regulations, and the impugned findings under challenge.

Challenge by SEBI in LPA 412/2018

14. At the very outset, and upon a plain reading of the Impugned Judgment, it becomes evident that the learned Single Judge has overlooked the applicable provisions of the SEBI Adjudication Rules. In order to appreciate the statutory scheme and the contours of the controversy, we deem it apposite to reproduce the relevant Rules hereinbelow:

“Appointment of adjudicating officer for holding inquiry.

3. Whenever the Board is of the opinion that there are grounds for adjudging under any of the provisions in Chapter VI-A of the Act, it may appoint any of its officers not below the rank of Division Chief to be an adjudicating officer for holding an inquiry for the said purpose.

Holding of inquiry.

4. (1) In holding an inquiry for the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G [, 15HA and 15HB] whether any person has committed contraventions as specified in any of sections 15A, 15B, 15C, 15D, 15E, 15F, 15G [, 15HA and 15HB] the adjudicating officer shall, in the first instance, issue a notice to such person requiring him to show cause within such period as may be specified in the notice (being not less than fourteen days from the date of service thereof) why an inquiry should not be held against him.

(2) Every notice under sub-rule (1) to any such person shall indicate the nature of offence alleged to have been committed by him.



(3) If, after considering the cause, if any, shown by such person, the adjudicating officer is of the opinion that an inquiry should be held, he shall issue a notice fixing a date for the appearance of that person either personally or through his lawyer or other authorised representative.

(4) On the date fixed, the adjudicating officer shall explain to the person proceeded against or his lawyer or authorised representative, the offence, alleged to have been committed by such person indicating the provisions of the Act, rules or regulations in respect of which contravention is alleged to have taken place.

(5) The adjudicating officer shall then give an opportunity to such person to produce such documents or evidence as he may consider relevant to the inquiry and if necessary the hearing may be adjourned to a future date and in taking such evidence the adjudicating officer shall not be bound to observe the provisions of the Evidence Act, 1872 (11 of 1872) :

Provided that the notice referred to in sub-rule (3), and the personal hearing referred to in sub-rules (3), (4) and (5) may, at the request of the person concerned, be waived.

[(5A) The Board may appoint a presenting officer in an inquiry under this rule.]

(6) While holding an inquiry under this rule the adjudicating officer shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to, the subject-matter of the inquiry.

(7) If any person fails, neglects or refuses to appear as required by sub-rule (3) before the adjudicating officer, the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so.

Order of the adjudicating officer.

5. (1) If, upon consideration of the evidence produced before the adjudicating officer, the adjudicating officer is satisfied that the person has become liable to penalty under any of the sections specified in subsection (1) of section 15-I, he may, by order in writing, impose such penalty as he thinks fit in accordance with the provisions of the relevant section or sections specified in section 15-I.

(2) While adjudging the quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.



(3) Every order made under sub-rule (1) shall specify the provisions of the Act in respect of which default has taken place and shall contain brief reasons for such decisions.

(4) Every such order shall be dated and signed by the adjudicating officer.”

(emphasis added)

15. We also deem it relevant to extract the relevant Section 15-A and 15-I of the Act, which read as follows:

“15A. Penalty for failure to furnish information, return, etc.—

If any person, who is required under this Act or any rules or regulations made thereunder, —

(a) to furnish any document, return or report to the Board, fails to furnish the same, [or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents] he shall be liable to [a penalty [which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations [or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents], he shall be liable to [a penalty [which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to [a penalty [which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]].

15-I. Power to adjudicate.—(1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, [15EA, 15EB,] 15F, 15G, [15H, 15HA and 15HB] the Board [may] appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the



person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

[(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 15T, whichever is earlier.]

(emphasis added)

16. An analytical reading of Rule 3 makes it evident that the statutory trigger for appointment of an AO is the formation of an opinion by the Board that there appear to be grounds for adjudging a contravention under any provision of Chapter VIA of the Act. Upon such satisfaction, the Board may appoint an officer not below the rank of Division Chief to act as the AO for conducting the inquiry.

17. The Rules thereafter delineate the procedural framework governing the conduct of such inquiry. Rule 4, in particular, prescribes the manner in which the AO is to proceed once appointed. In the present case, the proposed inquiry pertained to alleged violations of Regulations 13(3) and 13(5) of the PIT Regulations, arising from the failure to make mandatory disclosures.

18. Such failure would correspond to Section 15A(b) of the Act which has already been extracted hereinbefore and which sets out what would be the penalty in the event that a person to have been found in violation of the provisions.



19. Rule 4 of the SEBI Adjudication Rules further mandates that, for the purpose of adjudication under Section 15A, the AO must, at the threshold, issue a notice calling upon the concerned person to show cause as to why an inquiry should not be initiated. Under Rule 4(2), such notice must necessarily specify the nature of the offence alleged against the concerned person/Noticee.

20. Under Rule 4(3), upon consideration of the “cause”, if any, shown by such noticee in the event that the AO was of the opinion that an inquiry were to be held, the AO would have to issue a notice for the appearance of such noticee or their Authorized Representative or lawyer and on such date as fixed for the same, the AO under Rule 4(4) would explain to the noticee or their representative/lawyer the alleged offence committed by the notice and also inform them about the relevant provisions of the Act, Rules & Regulations in respect of which the alleged contravention has occurred. Under Rule 4(5), thereafter, the AO would provide such noticee or Authorized Representative/lawyer to produce all such material *inter alia* documents or evidence as considered relevant for the inquiry and under which the matter could be adjourned.

21. What assumes critical significance in the present proceedings is the complete omission to advert to the mandate of Rule 5 of the SEBI Adjudication Rules. Despite its centrality to the adjudicatory process, the requirements embedded therein appear to have been wholly disregarded.

22. It is pertinent to note that the challenge before the learned Single Judge pertained specifically to the notice issued under Rule 4(1). A plain reading of that notice demonstrates that it is a detailed and comprehensive communication, setting out the alleged violations



with considerable specificity. Paragraph 5 of the said notice further discloses that the Noticee had been expressly called upon to show cause as to why an inquiry ought not to be initiated against him in respect of the violations delineated therein. Paragraph 5 of the Notice is reproduced hereinbelow for ready reference:

“5. You are, therefore, called upon to show cause as to why an inquiry should not be held against you in terms of Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 and penalty be not imposed under Section 15A (b) of the SEBI Act for the alleged contravention of the PIT Regulations, 1992.”

23. In this backdrop, it becomes necessary to examine the nature, scope, and statutory purpose of the inquiry envisaged under the Rules, for which reference must be made to Rule 5. Rule 5(1) unequivocally stipulates that at this juncture the AO is required to form a considered opinion on three distinct aspects:

- (a) whether there has been a violation of any provision enumerated in Section 15(I) of the Act; and, upon arriving at such a finding,
- (b) whether the Noticee is liable to imposition of penalty under the corresponding penal provisions contained in Section 15; and thereafter,
- (c) to record in writing the imposition of such penalty as the AO may deem appropriate in consonance with the specific statutory provision under which the inquiry has been undertaken.

24. Evidently, the error in the approach of the learned Single Judge lies in the assumption that, the inquiry contemplated under Rule 5 was undertaken solely for the purpose of determining the quantum of penalty, without allegedly first arriving at a reasoned satisfaction regarding the commission of a violation warranting such penalty. This misconception stands revealed from the very formulation of the issue



in paragraph 23 of the Impugned Judgment, wherein the learned Single Judge frames the question in the following terms:

“23. The questions that are required to be addressed in this petition are (i) **whether the Whole Time Member had formed an opinion that there were grounds for adjudging penalty under Section 15A(b) of the Act**; and (ii) whether the Whole Time Member was required to pass an order under Regulation 14 of the PIT Regulations before taking any steps for appointing an Adjudicating Officer for adjudging any penalty under Section 15A(b) of the Act.”

25. A plain and unembellished reading of the aforesaid question makes it evident that the learned Single Judge proceeded on the erroneous premise that the notice issued was solely for the purpose of imposing a penalty, without first undertaking the requisite appraisal as to whether the foundational jurisdictional fact - namely, the commission of a violation warranting such penalty - had at all been established by the formation of an opinion by the Appellant-Board.

26. In truth, it is this very satisfaction and determination that is contemplated under Rule 5(1), a stage which had indisputably not yet arisen. At the cost of repetition, we once again deem it appropriate to extract Rule 5(1), which reads as under:

“5. (1) If, upon consideration of the evidence produced before the adjudicating officer, the adjudicating officer is satisfied that the person has become liable to penalty under any of the sections specified in subsection (1) of section 15-I, he may, by order in writing, impose such penalty as he thinks fit in accordance with the provisions of the relevant section or sections specified in section 15-I.”

27. The language of Rule 5(1) unambiguously clarifies that it is at this stage that the AO is required to assess and conclude whether a violation under Section 15(I), *inter alia*, Section 15A(b) has occurred. The impugned judgment, however, appears to have omitted to appreciate these statutory prescriptions.



28. Viewed in this light, we entertain no manner of doubt that the appointment of an AO under Rule 3 is an administrative step, one that merely initiates the process and does not, at that stage, entail any quasi-judicial determination or cause any prejudice to the Noticee, Mr. Amit Jain/Petitioner.

29. The scheme of the Rules makes it abundantly clear that the inquiry envisaged thereunder is a sequential exercise: first, to ascertain whether any contravention of the provisions enumerated in Section 15-I, including Section 15A(b), has occurred; next, to determine whether such contravention renders the Noticee liable to penalty; and only thereafter, to adjudicate the quantum and modality of such penalty.

30. We are, therefore, of the considered view that the learned Single Judge fell into clear error in concluding that the Show Cause Notice dated 14.11.2013 had been issued for the purpose of adjudging penalty. As elaborated hereinbefore, the inquiry was directed, in the first instance, towards determining whether any violation under Section 15A(b), constituting the initial procedural exercise required to be undertaken prior to carrying out the remaining exercises, *inter alia*, the determination on imposition of a penalty, and if found warranted, the quantum of such penalty. The concern expressed by the learned Single Judge regarding the absence of a prior formation of opinion before imposition of penalty thus, appears to have been on a misapprehension and therefore, misconceived. We also note that this aspect does not seem to have been lucidly set out before the Learned Single Judge, which may have resulted in his entertaining such a misapprehension.



Challenge by Amit Jain IN LPA 550/2018

31. We discern no infirmity in the conclusion reached by the learned Single Judge insofar as the alleged requirement of passing an order under Regulation 14 of the PIT Regulations prior to initiating steps for the appointment of an AO or for undertaking any adjudicatory exercise under Section 15A(b) of the Act is concerned.

32. The learned Single Judge has, in our view correctly, held that the PIT Regulations operate *without prejudice* to the Board's independent statutory power to proceed under Chapter-VIA. This position is evident from a plain reading of Regulation 14. Any violation of the Regulations may attract the issuance of directions by the Board under Regulation 11; however, such directions are expressly stipulated to be *in addition to* - and not in substitution of - remedial or penal measures available under Chapter-VIA. This necessarily implies that the invocation of the adjudicatory mechanism under Chapter-VIA does not require the Board first to traverse or exhaust the remedial framework under the Regulations.

33. We therefore concur with the learned Single Judge that no requirement can be culled out from the PIT Regulations mandating a prior determination thereunder as a condition precedent to the initiation of proceedings under Chapter-VIA of the Act.

CONCLUSION:

34. In view of the foregoing analysis, we are persuaded to hold that ***LPA 412/2018*** merits acceptance, and, accordingly, the findings returned by the learned Single Judge on the issue arising therein are hereby set aside.



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35. Conversely, insofar as **LPA 550/2018** is concerned, we find ourselves in full agreement with the reasoning and conclusion of the learned Single Judge. The said appeal, therefore, stands dismissed.

36. All pending application(s), if any, shall stand disposed of in terms of this judgment.

37. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
DECEMBER 11, 2025/tk/kr