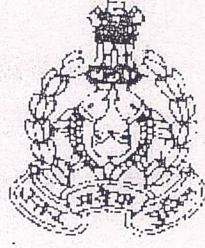


देवराज नागर,
आई0पी0एस0



पुलिस महानिदेशक
उत्तर प्रदेश।

दिनांक: लखनऊ: अक्टूबर 20, 2013

प्रिय महोदय/महोदया,

कृपया अध्यक्ष, भारतीय प्रतिभूति और विनियम बोर्ड (SEBI) के संलग्न पत्र का अवलोकन करने का कष्ट करें जिसके द्वारा यह अवगत कराया गया है कि शेयर दलालों व उनके ग्राहकों के मध्य शेयर बाजार में हुए लेन-देन के विवादों से सम्बन्धित मामलों की शिकायत प्राप्त होने पर स्थानीय पुलिस द्वारा भारतीय दण्ड विधान में निहित प्राविधानों के अन्तर्गत मामले को अभिलेखीकृत किये जाने के उपरान्त सम्मन, वारण्ट, नोटिस आदि जारी कर दिया जाता है। कभी-कभी यह कार्यवाही स्टॉक एक्सचेंज के अधिकारियों और शेयर दलालों के प्रति भी की जाती है। साथ ही साथ पुलिस द्वारा भारतीय दण्ड प्रक्रिया संहिता की धारा 102 के अन्तर्गत स्टॉक एक्सचेंज को फण्ड के भुगतान के सम्बन्ध में रोक लगाने के निर्देश जारी कर दिये जाते हैं लेकिन बाद में पुलिस अधिकारियों के आदेश के अभाव में फण्ड और सिक्क्योरिटीज का लेन-देन वर्षों तक लम्बित रहते हैं।

पत्र में यह भी अवगत कराया गया है कि शेयर दलालों व उनके ग्राहकों के मध्य हुए लेन-देन के विवादों के निपटारे से सम्बन्धित शिकायतें अपराधिक किस्म की न होकर सिविल प्रकृति की होती हैं, और इन शिकायतों के निस्तारण के लिए भारतीय प्रतिभूति एवं विनियम बोर्ड के अन्तर्गत सेबी (SEBI) एक्ट-1992 प्राविधानित किया गया है। भारतीय प्रतिभूति एवं विनियम बोर्ड (SEBI) द्वारा निवेशकर्ताओं की शिकायतों को दर्ज किये जाने एवं उन पर कार्यवाही किये जाने हेतु देश के प्रमुख आठ शहरों (दिल्ली, मुम्बई, कोलकाता, चेन्नई, अहमदाबाद, हैदराबाद, कानपुर व इन्दौर) में सम्बन्धित स्टॉक एक्सचेंज के इनवेस्टर सर्विस सेन्टर (ISC) का गठन किया गया है। शिकायतकर्ता सीधे सेबी (SEBI) को भी शिकायत दूर करने के लिए परिवाद कर सकता है। शिकायतों के निस्तारण हेतु मध्यस्थता (arbitration) की भी व्यवस्था है। प्रकरण के सम्बन्ध में पृथक से प्राधिकरण स्थापित होने के बावजूद सामान्य विधिक प्रक्रिया (भादवि आदि) के अन्तर्गत जल्दबाजी में ग्राहकों की शिकायत पर शेयर दलालों के विरुद्ध पुलिस द्वारा कार्यवाही किया जाना उचित नहीं है।

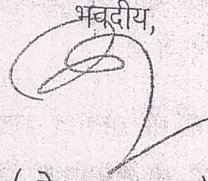
इस सम्बन्ध में आप लोगों को निर्देशित किया जाता है कि शेयर दलालों व ग्राहकों के मध्य लेन-देन के विवाद जो सिविल प्रकृति के हो उनमें पुलिस स्तर से कोई कार्यवाही न की जाये अपितु शिकायतकर्ता को

सेबी (SEBI) एक्ट-1992 के तहत प्राविधानित उपरोक्त व्यवस्थाओं के द्वारा अपनी शिकायत का निराकरण करने हेतु सुझाव दिया जाये। निम्नलिखित बिन्दुओं पर ही, जो सेबी (SEBI) के अधिकार क्षेत्र से बाहर हैं, पुलिस द्वारा कार्यवाही की जाये:-

- एक ग्राहक द्वारा दूसरे ग्राहक के अभिलेखों, पासवर्ड, शेयर आदि की चोरी किये जाने या धोखाधड़ी आदि किये जाने पर।
- ब्रोकर द्वारा किसी व्यक्ति से किसी ऋण आदि की योजना के अन्तर्गत लिये गये धन को वापस करने में असफल रहने पर, जिसका कार्य सम्पादन (transaction) स्टॉक एक्सचेंज में न हुआ हो।
- जहां स्टॉक एक्सचेंज, जमा करने वाले व्यक्ति या सेबी (SEBI) इस निर्णय पर पहुंचे हों कि प्रकरण भारतीय दण्ड विधान के अन्तर्गत चलाये जाने के लिए उचित है।

उपरोक्त निर्देशों का कड़ाई से अनुपालन कराना सुनिश्चित किया जाये।

संलग्नक: उपरोक्तानुसार

भवदीय,

(देवराज नागर) No. 10-13

समस्त वरिष्ठ/पुलिस अधीक्षक (नाम से)
प्रभारी जनपद,
उत्तर प्रदेश।

प्रतिलिपि:- निम्नलिखित को कृपया अनुपालनार्थ।

1. समस्त जोनल पुलिस महानिरीक्षक, उत्तर प्रदेश।
2. समस्त परिक्षेत्रीय पुलिस उपमहानिरीक्षक, उत्तर प्रदेश।

यू.के. सिन्हा

अध्यक्ष

U. K. Sinha
Chairman



भारतीय प्रतिभूति और विनिमय बोर्ड
SECURITIES AND EXCHANGE BOARD OF INDIA

MIRSD-2/ KR/LS/21446/2013
August 30, 2013

Dear Shri Nagar,

**Sub: Cases of police action in disputes between brokers and their clients
regarding stock exchange related transactions**

As you are aware, Securities and Exchange Board of India (SEBI) has been set up pursuant to enactment of SEBI Act, 1992 with a view to protect the interests of investors in securities market and to promote the development of and to regulate the securities market.

2. General principle of jurisprudence requires that when there is a specific legislation and a specific authority to deal with matters pertaining to their area of activity then hasty action under general laws should be avoided. Even higher courts in the country have been consistently following the principle that when a quasi judicial or tribunal mechanism is in existence then the specific remedial mechanism should be exhausted before approaching the High Courts/Supreme Court. However, stock exchanges, the stock brokers and their associations have brought to our notice that the police authorities are registering cases against their officials under the provisions of Indian Penal Code (IPC) based on the complaints filed by some of the clients of stock brokers regarding disputes pertaining to securities market transactions.

The sanctity of Indian securities market is dependent upon a robust risk management system, where collaterals are placed by the brokers with the exchange. In case of default or failure by the broker the exchange can liquidate the securities to ensure a smooth payment and settlement. We have got instances where police authorities are passing orders restraining disposal of securities thereby endangering the entire clearing & settlement system in the market. Such actions on the part of police can also incentivise collusive behaviour by brokers & clients where the exchange is likely to take action against the broker.

Besides, the clients are approaching the police even before availing the mechanism put in place by SEBI for the redressal of disputes or sometimes when the dispute is still under resolution at the stock exchange. I would like to inform you that SEBI has put in place the following mechanism to redress the complaints of investors:

- a. The client can approach the Investor Service Center (ISC) of the concerned stock exchange for non-redressal of complaint by his stock broker. Stock Exchanges are set up and recognised by SEBI under SCR Act 1956. Stock exchanges are required to redress the complaints in a time bound manner. These centres are

महानिरीक्षक (अपराध)

उत्तर प्रदेश, लखनऊ

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा-कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051. • दूरभाष : 2644 9999 / 4045 9999

फैक्स : 2644 9003 • ई-मेल : chairman@sebi.gov.in • वेब : www.sebi.gov.in

SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051. • Tel.: 2644 9999 / 4045 9999
Fax: 2644 9003 • E-mail : chairman@sebi.gov.in • Web : www.sebi.gov.in



currently set up in 8 cities viz. Delhi, Mumbai, Kolkata, Chennai, Ahmedabad, Hyderabad, Kanpur and Indore and these ISCs are going to be opened in more cities in a phased manner. ISC of the exchange places the matter before Investor Grievance Redressal Committee (IGRC) for resolution of complaint. IGRC comprises of independent persons having expertise in the area of law, finance, accounts, economics, management or administration and experience in securities market and members of IGRC are not associated with any stock broker. IGRC examines the records and holds meeting between the complainant client and his stock broker to work out an amicable solution. In case the client is not satisfied, he can file for arbitration which is a quasi judicial mechanism in the stock exchange under their bye-laws approved by SEBI. Arbitration centers are also available at the cities where ISC has been set up. The client also has the option to choose any arbitrator in his region from a pool of arbitrators. The arbitrator panel of the stock exchanges consists of eminent independent persons from the field of judiciary, banking and financial services. The client can also appeal against the arbitration award before appellate arbitrator panel within the stock exchange mechanism. The entire process is to be completed within a stipulated time period. Thus there is no need for the client to resort to court proceedings which are time consuming and expensive.

- b. The clients can file complaints with SEBI in writing or through email or by lodging complaints online by visiting the website (<http://scores.gov.in>) which is a centralised web based complaints redressal system. The complaints received by SEBI are taken up for redressal with the concerned stock exchange. The status of action taken on the complaints can also be checked by the investor online.
 - c. The status of all the complaints received by a stock exchange and arbitration cases filed by the investors is updated on the website of the stock exchange regularly. The complaints are closed only if the response of the broker is found to be satisfactory. There is also a well established system of complaint redressal against other intermediaries.
5. While the complaint of the client may give the impression that the complaint is of criminal nature like cheating and forgery attracting the provisions of IPC, the complaint may actually be of civil nature redressable under the aforesaid redressal mechanism. Sometimes complaints are filed by clients and accepted by police authorities even after the arbitration award has already been passed in the matter. The police authorities sometimes mistakenly consider officials of stock exchange also as the party to the transaction. As a result, the police issues summons, non-bailable warrants, arrest warrant, notices etc. to officials of stock exchange and stock brokers and they are summoned/detained at police station for interrogation. Many times the police have also issued orders to stock exchanges under Section 102 of CrPC inter alia directing the stock exchanges to withhold pay-out of funds and/or securities. The pay-in/out of funds and securities remains withheld for years without final orders from the police authorities. Such orders passed by police defeat the principle of 'finality' and 'irrevocability' of trades done on Stock Exchange and guarantee of the clearing and settlement of the trades by the clearing corporation of the Exchange.



6. I would urge that there is a need to sensitise the officers manning police stations about investor grievance redressal mechanisms already in place for dealing in complaints of civil nature against the intermediaries. However, the police may take suitable action under IPC in cases which are beyond the jurisdiction of stock exchanges and SEBI as mentioned below:

- (i) Complaint of a client against another client for forgery or stealing of documents, passwords, shares etc.
- (ii) Broker has defaulted in returning the funds taken from any person under scheme of loan etc. and there is no transaction in the stock exchange.
- (iii) Where stock exchanges, depositories or SEBI comes to the conclusion that the case is fit for examination under IPC.

7. In case the police authorities require any guidance on the issue, we shall be glad to organize training programs for them.

I shall be grateful to receive your response in this regard.

With regards,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'U. K. Sinha', is written over a horizontal line.

U. K. Sinha

Shri Deo Raj Nagar, IPS
Director General of Police, Uttar Pradesh
Police Headquartesr, 1, Tilak Marg,
Lucknow - 226001,
Uttar Pradesh.