ROLE OF SEBI IN PROTECTING THE INVESTORS INTEREST: A CRITICAL STUDY

By ***Rahul Kumar Baisla***

LLM (Criminology), NET Qualified

ABSTRACT

The primary function of SEBI to promote and develop healthy growth in the securities market as well as at the same time also to protect the interest of the investors. In order to protect the investors interest SEBI had taken various initiative by issuing the guidelines in terms of SEBI (disclosure and investor protection) guidelines,2000, by issuing public interest advertisements, by dealing with complaints of investors, by making awareness camp, by doing investor surveys, by regulating the working of intermediaries etc… these are the initiatives which were taken by SEBI to protect the interest of investors but the role of SEBI is not that of hundred percent as that of it would be, though to at large extent SEBI policies covers almost every defect corner. Firstly, SEBI fails to redress of investor grievances in adjudication proceeding as during 2013-14 penalty amounting to 120 lacs in approximately imposed on twenty companies for default in redressal of investor greivances which is very less. Secondly, SEBI had investigated 1527 cases out of which 1416 investigation is completed but 92 percent cases are relating to market manupulations, price rigging etc…Thirdly the mechanism of disposal of investor complaints s not in time bound manner. Fourthly, decline in invertors populations because of loosing trust due rampant malpractices observed in capital market as per Swaroop committee report. Lastly, large fraud which influences the market are detected by the SEBI but, small fraud which are not in the vision watchdog of SEBI.

KEYWORDS*:*

SEBI, Guidelines, Investor protection, Redressal Grievance, Investigation

INTRODUCTION:

The Securities and Exchange Board ofIndia Act, 1992 (the SEBI Act) was amended in the years 1995, 1999 and 2002 to meet the requirements of changing needs of the securities market and Responding to the development in the securities market. The Primary function of Securities and Exchange Board of India under the SEBI Act, 1992 is the protection of the investors' interest and the healthy development of Indian financial markets.

To protect the interests of investors through proper education and guidance as regards their investment in securities. For this, SEBI has made rules and regulation to be followed by the financial intermediaries such as brokers, etc. SEBI looks after the complaints received from investors for fair settlement. It also issues booklets for the guidance and protection of small investors. To regulate and control the business on stock exchanges and other security markets. For this, SEBI keeps supervision on brokers. Registration of brokers and sub- brokers is made compulsory and they are expected to follow certain rules and regulations.

SEBI has issued guidelines to companies (bringing new issues in the market), mutual funds, portfolio managers, merchant bankers, underwriters, lead managers, merchant bankers, underwriters and lead managers etc. to comply with the provisions relating to protection of investors and for the development of healthy trading practices in the securities markets. These guidelines are for bringing transparency in their operations and also for avoiding exploitation of investors by one way or the other. SEBI has introduced a code of advertisement for public issues for ensuring full, fair and truthful disclosures and to aware the public about the risks involved in investments. The investors can make online complaints to SEBI if they face any problem related to non-receipt of shares certificates, non transfer of shares, non- receipts of dividend and other fraudulent practices of the companies. SEBI acts for redressal of grievances of investors, undertakes investigations and take actions against the defaulting companies.

OBJECTIVES OF SEBI[i]

The SEBI has been entrusted with both the regulatory and developmental functions. The objectives of SEBI are as follows:

- Investor protection, so that there is a steady flow of savings into the Capital Market.
- Ensuring the fair practices by the issuers of securities, namely, companies so that they can raise resources at least cost.

- Promotion of efficient services by brokers, merchant bankers and other intermediaries so that they become competitive and professional.

ROLE OF SEBI IN INVESTOR PROTECTION

1. **ISSUE OF GUIDELINES**[ii]: SEBI has issued guidelines to companies (bringing new issues in the market) Mutual funds, portfolio managers, merchant bankers, underwriters, Lead managers, etc. FOR THE PURPOSE OF TRANSPARENCY.
2. **PUBLIC INTEREST ADVERTISEMENTS**[iii]: SEBI issues public interest advertisements enlighten investors on the basic features of various instruments and minimum precautions they should take before choosing an investment. The SEBI desires to create awareness among investors about their rights and about remedies if problem arise. It has published some booklets for the information and guidance of investors.
3. **INVESTOR SURVEYS**[iv]: SEBI has also conducted surveys in respect of investment and opportunities for the benefit of small investors.
4. **DEALING WITH COMPLAINTS OF INVESTORS**[v]: The investors can make complaints to SEBI if they face problems relating to their investment in industrial securities and financial assets.
5. **DISCLOSURES BY COMPANIES**[vi]: SEBI has introduced norms for disclosure of half yearly unaudited results of companies.

FAILURE OF SEBI IN PROTECTING THE INVESTOR INTEREST

SEBI being a premiere institution for dealing with the problems relating to securities has advanced a long way towards protecting the investors from the hazards of the predators existing in the market. On the positive front, many banks sponsored mutual fund had launched assured return schemes and lured the investor's huge contribution. However at the time of maturity could not match the assured return. Sponsored bank also tried to raise their hands eg. Canara Bank, Indbank, State Bank of India etc. SEBI gave directive to sponsor bank to honour the commitment made by the mutual funds. Shortfall of more than Rs.,2000 crores was met by sponsor banks for benefit of small investors. The SEBI has given directives to the listed companies and to the top 150 companies in particular to observe the code of corporate governance by March end 2001. The contrary scenario was that only the big fishes could escape the net and the small ones were still striving to uphold their existence.

It is also pointed that SEBI watchdog is a dog without teeth. It only wears dentures to fight against manipulators and finally those people get away with murder. A recent case study is the Essar Steel delisting story. SEBI watched silently when the promoters came to the market, didn't share profits and left the investors high and dry and took the cool delisting option.

FAILURE OF SEBI TO PROTECT THE INVESTORS GREIEVANCE:

Year	No. of Companies	Penalty Amount (In Lacs Rs.)
2010-11	3	42
2011-12	5	61
20 12-13	10	40
20 13-14	20	120

Table sourced from Annual Report of SEBI[vii]

Above table shows the adjudication proceeding initiated against those companies who fail to redress the grievances of the investors. SEBI has imposed penalty on such companies which does not redress the grievances of the investors. During the year 2013-14, penalty amounting Rs. 120 Lacs in aggregate has been imposed on 20 companies for default in redressal of investors' grievances.

CONCLUSION

SEBI has left no stone unturned for the safeguard of investors from the malpractices and fraudulent practices of Issuers and market Intermediaries. SEBI is redressing the investors' grievances by carrying out investigation and action has been taken in case the grievances are not redressed by the concerned quarter with in the time frame. SEBI has issued various guidelines which area mended from time to time to cope with the problems arises during the course to ensure that the savings of investors may remain safe and to maintain the investors' confidence across the country. However, SEBI is not fully successful in its mission as evident from the report of Swaroop committee report which states that the investor population in our country has declined from 20 million in the1990s to just over 8 million in2009. The main reasons for this steep fall in investor population can be attributed to the rampant malpractices observed in the capital market, the short-changing of investors at various levels and the absence of any mechanism for expeditious and satisfactory disposal of investor complaints in a time bound manner.

REFERENCES

---

[i] The Securities and Exchange Board of India Act,1992 Section 2 h reads as “"regulations" means the regulations made by the Board under this Act”

[ii] The Securities and Exchange Board of India Act,1992 as mentioned in chapter IV.

[iii] The Securities and Exchange Board of India Act,1992 as mentioned in chapter IV.

[iv] The Securities and Exchange Board of India Act,1992

[v] The Securities and Exchange Board of India Act,1992

[vi] The Securities and Exchange Board of India Act,1992

[vii] As provided under “www.sebi.gov.in/sebiweb/home/list/4/44/0/2/Investor-Survey.”