

SECP Bench refuses to grant 7th adjournment to textile mill

ISLAMABAD: A two-member Appellate Bench of the Securities and Exchange Commission of Pakistan (SECP) has refused to grant seventh adjournment to a textile mill and dismissed its appeal.

The case is related to the order passed by the Commissioner Securities Market Division against the textile unit for committing violations of the SECP laws, which resulted in imposition of penalty under section 160 (penalty to be imposed by the Commission) and directions issued under section 100 (power of the Commission to issue directives to companies) under Securities Act 2015.

According to an order of the SECP Appellate Bench issued here on Tuesday, the bench observed that the companies and their counsel cannot be allowed to regulate the proceedings of the SECP Appellate Bench by their own choice and whims. Rights of each of the parties are equally protected under the law and none of the parties are permitted to stifle and prolong the proceedings without any sufficient and just cause.

The SECP Appellate Bench said that the order shall dispose of Appeal No. 13 of 2016 filed under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the order dated 5/4/16 (the impugned order) passed by the commissioner Securities Market Division (SMD) (the Respondent) under Section 160 read with section 100 of the Securities Act, 2015 (the Act).

This appeal was registered on May 18, 2016 and respondents' comments were received on June 30, 2016. Since its registration, the appeal had been fixed for seven hearings; however, all hearings were adjourned on the appellants' request. The appellants (directors of a textile mills) had availed successive adjournments on one pretext or the other, spanning over three years. Irrespective of the casual conduct of the appellants, the Appellate Bench (the Bench) had desired to provide another opportunity of hearing and accordingly the appeal was re-fixed for hearing on March 12, 2019. However, once again, adjournment was sought by the appellants.

The Appellate Bench is of the view that the appellants' adjournment request seems to be deliberate, as they have not allowed the bench to proceed with the appeal. The appellants have delayed the appeal just to defeat the legal process and avoid penal consequences. It is also important to note here that in the instant appeal, a special cost of Rs 5,000 was imposed vide an order dated October 20, 2016 on the appellants, which was paid by them. However, the appellants subsequently availed five adjournments and failed to attend the proceedings before the bench.

The record of the instant appeal shows that it was not diligently pursued by the appellants and, thereby, making it impossible for the Bench to proceed with the matter. In view of the judgement of Lahore High Court (2018 CLC 1981 (Fayyaz Haider Versus Malik Ishtiaq Hussain- Lahore High Court, Lahore), the appellants and defendant had a right to be heard and represented by a counsel but at the same time it could not be permitted to defeat the cause of justice by indefinite procrastination by either party. Ample opportunities were provided to the appellants to ensure their representation and argue the appeal, however, they have failed to attend the proceedings before the bench.

In view thereof, the bench is not inclined to grant further adjournment to the appellants and, therefore, the bench orders to proceed ex parte against the appellants. In the circumstances, the appeal is dismissed, the SECP Appellate Bench added.