

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER UNDER REGULATION 16 (5) READ WITH REGULATION 13 (6) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002

IN THE MATTER OF M/S. YOGENDRA SHARMA, MEMBER,

UTTAR PRADESH STOCK EXCHANGE

- 1.0 M/s. Yogendra Sharma, (hereinafter referred to as 'the said broker') a member of Uttar Pradesh Stock Exchange (hereinafter referred to as 'the UPSE') was granted certificate of registration by SEBI to act as stock broker for carrying on the activities of buying, selling or dealing in securities or carrying on such other activities as are permitted by UPSE subject to conditions prescribed in the SEBI (Stock Brokers and Sub Brokers) Rules, 1992 and in accordance with the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as 'the said Regulations'). The registration no. allotted to the said broker is INB 100382516.
- 1.1 The UPSE vide its letter dated May 10, 2002 informed SEBI that the said broker was declared defaulter by the exchange on 25th October 2001 and from that date it ceased to be a member of the UPSE. The reason for which the said member was declared defaulter by the exchange was pay in defaults. The UPSE vide their letter dated 16.11.2002 further informed that the claim of other brokers against the said broker was Rs.1,04,207.50. However, such claims are pending for disbursement as the membership card of the said broker was pending for auction due to non availability of the buyers in the market.
- 2.0 In view of the above, vide order dated 28th February 2003, Shri Ananta Barua was appointed as Enquiry Officer to enquire into the possible violation of regulation 15 (c) of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'Enquiry Proceeding Regulations') against the said broker.
- 2.1 The Enquiry Officer issued a show cause notice dated 13th March 2003 under regulation 16(2) of the Enquiry Proceeding Regulations to the said broker. The said broker did not submit any reply to the said show cause notice, therefore, the Enquiry Officer submitted his report dated 30th May, 2003 after taking into consideration the relevant material available on record. The Enquiry Officer has found that the said broker has ceased to be a member of the UPSE with effect from 25th October, 2001 and the period of readmission had also expired long back. Therefore, the certificate of registration of the said broker is liable to be cancelled under rule 4(a) of the Rules read with Regulation 25(a) of the said Regulations and Regulation 15(c) of the Enquiry Proceedings Regulations. On the basis of this finding the Enquiry Officer recommended under regulation 16(3) read with regulation 13(1) of the Enquiry Proceedings Regulations that the certificate of registration of the said broker be cancelled.
- 3.0 I have considered the facts of the case as found in the Enquiry Report and material available on record. I find that the said broker has ceased to be a member of the exchange with effect from 25th October, 2001 and the period of readmission has also expired. Under Rule 4(a) of SEBI (Stock Brokers and Sub-brokers) Rules, 1992, one of the condition of registration as a stock broker is that he holds the membership of any stock exchange. Under regulation 25(a) of the said Regulations, a stock broker is liable for action if he fails to comply with any conditions subject to which registration has been granted. In terms of regulation 13 of the Enquiry Proceeding Regulations a certificate of registration of a stock broker may be cancelled if an intermediary is guilty of violations of conditions of registration. In the instant case the said broker has ceased to be a member of the UPSE and has thus violated the condition of registration as provided in rule 4(a) of the above mentioned rule. Therefore the certificate of registration granted to the said broker is liable to be cancelled.
- 3.1 In view of the above, I find that the penalty as recommended by the enquiry officer is reasonable in terms of regulation 13 (1) (b) (i) read with regulation 13 (6) (b) of the Enquiry Regulations. Therefore, in exercise of the powers conferred upon me by virtue of sub section (3) of section 4 of the Securities and Exchange Board of India Act, 1992 read with regulations 16(5) and Regulation 13 (1) (b) (i) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 I hereby order that the certificate of registration of M/s. Yogendra Sharma to act as a stock broker, a member of the Uttar Pradesh Stock Exchange be cancelled.
- 4.0 This order shall come into effect after three weeks from the date of this order.

DATE : 17.6.2003

PLACE: MUMBAI

G. N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA