

# SECURITIES AND EXCHANGE BOARD OF INDIA

## ORDER

**In the matter of directions to Indian Finance Gauranty Limited under Section 11 read with section 11B of the Securities and Exchange Board of India Act, 1992 regarding irregularities in the conduct of the affairs of Bhubaneswar Stock Exchange Member s Welfare Trust**

**CO/191/MRD/01/2004**

- 1.0 In exercise of powers under Section 6(3) of the Securities Contract (Regulation) Act, 1956 (hereinafter referred to as "SC(R)A"), on 28.9.2001, The Securities and Exchange Board of India (hereinafter referred to as "SEBI") instituted an inquiry into the affairs of the Bhubaneswar Stock Exchange (hereinafter referred to "the Exchange") in relation to the alleged siphoning of funds out of the exchange to the tune of Rs.1.30 crore including interest through The Bhubaneswar Stock Exchange Members Welfare Trust (hereinafter referred to as "the Trust") by the members of the Exchange.
- 2.1 The Inquiring Authority appointed vide the order mentioned in paragraph 1.0 supra, conducted inquiry in the manner laid down in Rule 11 of the Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as "SC(R)R") and submitted his report to SEBI on 22.10.2001. In his report the Inquiring Authority has found that : -
- 2.1.1 The Exchange had neither sought permission nor sent any intimation to SEBI regarding the formation of the Trust. They were unable to produce any documents to prove that approval of SEBI was obtained for the formation of the trust.

2.1.2 As per the Trust Deed, the number of trustees of the trust shall not be less than three and more than five. It was observed that the trustees have always been from among the elected members of the exchange. The President and the Treasurer of the exchange are also the Chairman and Treasurer of the Trust respectively. No Public Representative and SEBI nominee Director was made a Trustee. The Executive Director of the Exchange was present in meetings of the Trust as a special invitee without having any say in the decision for grant of loan by the Trust to the members of the Exchange.

2.1.3 The Rules of the Trust initially stipulated that "in case of temporary financial difficulty in making payment of dues to the Clearing House of the Exchange, a maximum of Rs.2,00,000/- shall be paid as loan which shall be recovered in 5 equal instalments along with 24% p.a. simple interest" and that "a member shall not be entitled to avail loan under this facility more than two times in a year." Thereafter, the Council of Management of the Exchange at its meeting held on November 29, 1997 amended the Rules of the Trust to provide that "in case of temporary financial difficulty in making payment of dues to the Clearing House of the Exchange, a loan upto Rs.5 lacs or if the circumstances so warrant, such other higher amount as may be decided by the Trustees may be sanctioned which shall be ordinarily recovered within a period of two months along with the simple interest of 24% per annum. The trustees, however, may extend the aforesaid period of two months in appropriate cases from time to time as may be deemed fit."

2.1.4 As on the date of inquiry (1.10.2001 – 3.10.2001), out of total outstanding loan of Rs.95,83,782 (excluding interest) a sum of

Rs.94,13,782 (i.e. approx 98% of the total outstanding loans) was due from members who were either office bearers of the exchange or the trustee of the Trust. Further, out of the total loan outstanding (excluding interest), one Shri Babulal Sharma's outstanding loan amount (excluding interest) constitutes 92.5% of the total loan outstanding of Rs.95,83,782/-. Further, out of the total outstanding loan, a loan of Rs.90,99,620/- (i.e. 95%) was granted to meet the members' pay in liabilities. Further, it was also observed that in some cases, it was observed that loans were sanctioned without proper security.

2.1.5 The rules of the Trust clearly state that loans may be granted subject to the fulfilment of several conditions. One of the conditions clearly states that at the time of submitting application for loan, there should not be any amount of loan outstanding which is refundable to the Trust. This condition has not been adhered to in the case of Shri Babulal Sharma, where loan has been sanctioned although the previous loan has not been repaid. In the case of Shri Arun Kumar Girdhar, loan has been sanctioned when interest of the previous loan has not been paid by him.

2.1.6 It was also observed from the bank statement in the name of Shri Babulal Sharma's account No.1003, maintained with Canara Bank, Exchange Branch, that major portion of the above loans were used for making payments to Indian Finance Guaranty Ltd. (hereinafter referred to as "IFGL"), member of the National Stock Exchange (NSE) and Over The Counter Exchange of India (OTCEI) . It was further observed that Shri Tulsi D. Bhayana (hereinafter referred to as "the member") and Shri Ashok K. Sardana, the Directors of IFGL, were elected President and Vice President respectively of the

exchange in the Annual General Meeting of the members of the exchange held on September 29, 2001.

2.2 In view of the above, since it was apprehended that IFGL was involved in and had derived benefit from the irregularities relating to loans extended by the trust, in the interest of investors and in the interest of the securities market, vide order dated 29.10.2002, IFGL was prohibited from buying, selling or otherwise dealing in the securities market till further orders.

2.3 A post decisional hearing was granted to IFGL on 23.11.2002 in which Shri Ashok K Sardhana, Director appeared on behalf of IFGL. During the hearing the member represented that he was not involved in any of the alleged irregularities regarding siphoning of funds from BHSE.

3.0 I have considered the facts of the matter, the report of the inquiring authority, and the findings in the order dated 29.10.2002, the submissions of the member and other material on record. The following issues arise for consideration:

3.1 **Whether it is necessary for SEBI, in the interest of investors and the securities market, to continue the prohibition on the member from dealing in securities and from being associated with the securities market.**

3.1.1 I note that the Shri Ashok Sardhana as a Director of IGFL had permitted Shri Anjani Kumar Singh to transact business in NSE settlement Nos. 9920, 9922 and 9938. The said Anjani Kumar Singh alongwith Shri Babulal Sharma had obtained a loan from the Trust to meet their pay-in liability

under the aforesaid settlements. The details of the loans sanctioned were as under :

| Date       | Amount (Rs.) | Purpose                                                            |
|------------|--------------|--------------------------------------------------------------------|
| 21/5/1999  | 10,77,319/-  | Payment of Pay-in dues of the Clearing House of the Stock Exchange |
| 7/6/1999   | 35,00,000/-  | -do-                                                               |
| 29/9/1999  | 22,00,000/-  | -do-                                                               |
| 30/10/1999 | 16,00,000/-  | -do-                                                               |
| 13/01/2000 | 15,25,000/-  | -do-                                                               |

3.1.2 I also note from the statement of account of the Trust that an amount of Rs.35 lakhs was credited by the Trust to the account of M/s. Pradeep Investments on 7.6.1999 and on the same day an amount of Rs.25 lakhs was transferred from the latter to the account of IFGL. I further note that out of the sum of Rs.22 lakhs credited to the account of M/s. Pradeep Investments on 29.9.1999, on the same day, an amount of Rs.15 lakhs was transferred to the account of IFGL. Thus, it appears that IFGL and its directors were the beneficiaries of the loans sanctioned to various members by the trust.

3.1.3 I further note that the trust had delivered 16,200 equity shares of Reliance Industries Ltd. (RIL) to IFGL for sale and these shares were sold by IFGL on NSE at Rs.367/- per share. An amount of Rs.12,84,776.00 is reportedly outstanding against IFGL against the said transaction.

3.1.4 In view of the above, I find that it is not in the interest of investors and the securities market to permit the member to

be associated with the securities market or to deal in securities.

- 4.0 Therefore, in exercise of the powers conferred upon me under Section 4(3) of the SEBI Act, 1992, read with Sections 11 and 11B of the SEBI Act, 1992, I hereby direct that Indian Finance Guaranty Limited, Member of National Stock Exchange (SEBI Registration Number- INB230880637) and member of OTCEI (SEBI Registration Number INB200591231) shall not associate themselves with the securities market and shall not buy, sell or otherwise deal in the securities market till further orders.

**Date: 16.01.04**

**Place: Mumbai**

**G.N. BAJPAI**

**Chairman**

**Securities and Exchange Board of India**