

# SAT rejects Sebi's objection, allows appeals to be heard in absence of technical member

## Synopsis

The capital markets regulator didn't want SAT to hear appeals till such time a technical member is appointed by the government.



Sebi's contention was that every bench must have at least one technical member and since the current bench are of Judicial members, the constitution of the bench is defective.

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Mumbai: The **Securities Appellate Tribunal (SAT)** said on Monday the bench comprising judicial members have **jurisdiction** to hear the matters before it in the absence of a technical member. The tribunal hears **appeals** against orders passed by Securities and Exchange Board of India.

The capital markets regulator didn't want SAT to hear appeals till such time a technical member is appointed by the government. The SAT bench was functioning with a presiding officer, judicial member and a technical member. The technical member, CKG Nair demitted office on March 31. Since then, the bench of the tribunal consisted of the presiding officer and a judicial member.

Sebi's contention was that every bench must have at least one technical member and since the current bench are of Judicial members, the constitution of the bench is defective.

"Similar assertion is being made by **Sebi** while filing their replies in other appeals and, therefore, it has become imminent to decide this issue. Consequently, this Tribunal is now enjoined to rule its own jurisdiction," SAT said in its order on Monday.

The tribunal rejected the objection raised by Sebi.

"We are of the confirmed opinion that the functioning of the tribunal presently comprising of a Presiding Officer and a Judicial Member is not defective on account of non-availability of Technical Member and that the Bench constituting the Presiding Officer and Judicial member can proceed to hear and decide the appeals, etc which are filed before the SAT," the tribunal said in its order.

It also directed the registrar of the tribunal to send a copy of the order to the Secretary, **Ministry of Finance**, Department of Economic Affairs, with a request to fill up the vacancies at the earliest and also to the secretary general of the **Supreme Court of India** with a request to place the order before the Chief Justice of India and, if desired, to treat the order as a **PIL** (public

interest litigation) to resolve the issue on the judicial side so that the matter is resolved once and for all from the highest Court in India.

"This order settles the issue of constitution of Tribunal temporarily till it is stayed by Supreme Court which in my view is unlikely," said Sumit Agrawal, Founder Regstreet Law Advisors and former SEBI Officer.

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