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Negligent Regulator: On the NSE Fiasco

Why in news?

The SEBI's order relating to the country's National Stock Exchange (NSE) of India raises more questions than resolving the interests of investors in securities.

What is the background of the issue?

- The SEBI's order highlights the regulator's delay in adjudicating a sensitive matter involving
 - the manner of appointment of a top-level NSE official
 - possible regulatory violations by the then CEO and MD Chitra Ramkrishna in sharing confidential internal information with an unknown person
- The first complaint alleging governance issues in the NSE's appointment of Anand Subramanian as Chief Strategic Adviser was received in 2015.
- After an exchange of e-mails on the issue between the regulator and the NSE in 2016, SEBI tasked the exchange's board with determining if there had been violations of norms.
- In 2017, the NSE sent back a report by the board's Nomination and Remuneration Committee which flagged several irregularities pertaining to his appointment including his lack of relevant experience and that Ms. Ramkrishna alone had interviewed him.
- SEBI, in the course of its probe into another matter at the NSE was shocked by the evidence pointing to Ms. Ramkrishna sharing sensitive information with an unknown person through mail.
- The NSE concluded based on findings in a forensic audit by Ernst & Young that this unknown person was none other than Mr. Subramanian.

What is the NSE co-location case?

- The NSE is facing allegations that some brokers got preferential access through the co-location facility at the stock exchange.

- In 2015, a whistleblower wrote to SEBI alleging that a few brokers were able to log into the NSE systems with better hardware specifications while engaged in algorithmic trading, which allowed them unfair access and advantage.
- The unfair access issue pertains to 2012-14 when NSE used to disseminate price information through a unicast system in which information is disseminated to one member after another.
- It was also said that NSE had allowed non-empanelled Internet Service Provider (ISP) to lay fibre cables on its premises for few stock brokers.

What was the action taken by the SEBI?

- It took the regulator 40 months to clearly conclude that the unknown person guiding Ms. Ramkrishna was Mr. Subramanian
- He was the biggest beneficiary of the guidance by getting promoted as Group Operating Officer and receiving annual pay increases.
- SEBI acknowledges that it was restricted by the NSE's dilatory approach in responding to its directions.
- The board of a Market Infrastructure Institution, charged with safeguarding the trust of millions of investors failed to exercise crucial oversight over the conduct of its CEO and SEBI too hardly covers itself in glory.
- SEBI penalised the exchange and two of its former heads over irregularities in hiring its erstwhile group operating officer Anand Subramanian.
- The exchange said market regulator SEBI has tightened its oversight over market infrastructure institutions (MIIs).
- SEBI has also instituted various changes in the governance structure of MIIs, including board committee structures and oversight, tenor of management, accountability for lapses at MIIs, which have strengthened the control environment.

References

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