

Short of Members, SAT Sits on Appeals Against Sebi Orders

The Securities Appellate Tribunal (SAT), a tribunal tasked with hearing appeals against the Securities & Exchange Board of India, has hardly functioned since the middle of March because of a lack of quorum resulting in cases piling up.

Sebi rules require a three-member bench to hear appeals against the market regulator's orders. In mid-March, member AS Lamba retired. At present, there are two members--presiding officer Justice JP Devadhar and Jog Singh. However, with Singh often going on leave, the bench has not been able to sit on a regular basis as the law requires at least two members to be present. As of July, there are 552 cases pending before SAT, of which some cases are clubbed together. On July 12, 2013, when Justice Devadhar took charge, there were 126 cases pending before SAT. The number was subsequently brought down to 60.

Between March 1 and now, Singh has been on leave for about 44 days out of 110 working days (excluding Saturdays and Sundays) on grounds of illness, SAT said in response to a request filed by ET under the Right to Information Act. In other words, the tribunal has not been able to function on an average of three days in a week.

Justice Devadhar declined to comment for this report. The vacancy created after Lamba retired is yet to be filled by the government. Sources familiar with the matter said a replacement has been picked and the person would be appointed soon. "It is weird that the system fails every single time with filling of vacancies at SAT. You don't dig a well after you get thirsty. The retirement date for every member is known when he is appointed. If the system is serious about tribunals, the search and selection process for filling vacancies could start well before they arise," said Somasekhar Sundaresan, partner at JSA Advocates & Solicitors.

The state of affairs has prompted top legal eagles, including Iqbal Chagla, Darius Khambata, Janak Dwarkadas and Sundaresan, to form an association that would look at addressing some of these issues and promote best practices in the conduct of proceedings at SAT. "We have felt a need to come together to represent the interests of practitioners at SAT and to contribute to maintaining the standing of this very important tribunal. We hope to raise the bar on professional practice standards brought to bear in SAT by all quarters and stakeholders. We also intend to make representations to the finance ministry, which administers SAT's functioning," said Sundaresan, who is the secretary of this association. Senior advocate Janak Dwarkadas is the chairman.

This is not the first time the tribunal is grappling with vacancy issues.

In 2009, a public interest litigation was filed in the Bombay HC drawing its attention to the backlog of cases.

(Economic Times)