



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No.145 of 2020

Rehmat Ali Hasnie

...Appellant

Versus

Assistant Director, Securities & Exchange Commission of Pakistan

...Respondents

Date of hearing:

May 30, 2024

Present:

For the Appellants:

Muhammad Aqeel Malik

For the Respondents:

Najia Ubaid (Additional Director) Licensing Department, Securities and Exchange Commission of Pakistan.

ORDER

1. This Order shall dispose of the Appeal No. 145 of 2020 filed by Mr. Rehmat Ali Hasnie (the "Appellant") through Mr. Muhammad Aqeel Malik (the "Authorized Representative") against the Letter dated September 21, 2020 (the "Impugned Letter") issued by the Assistant Director, Appellant Bench Registry, (the "Respondent")
2. The brief facts of the case are that the Appellant preferred an appeal on October 21, 2020 under Section 33 of the SECP Act, 1997 against the Impugned Letter, which was issued to the Appellant



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by the Respondent whereby the Securities and Exchange Commission of Pakistan (the "Commission") declined the approval of appointment of the Appellant as Director on the Board of FCIBL (the 'Company'). According to this Impugned Letter, he did not fulfill the requisite criteria for fitness and propriety as provided in Schedule IX of NBFC&NE Regulations.

3. The Appellant has preferred this Appeal on the grounds, *inter alia*, that there was no justified reason on the basis of which the Appellant was not declared fit and proper to be a director on the Board of FCIBL. The Authorized Representative for the Appellant directed the Bench's attention to documents demonstrating that the Company was already incurring losses prior to the Appellant's involvement. Furthermore, the Authorized Representative highlighted to the Bench the 'Fit and proper' criteria outlined in Schedule IX of the NBFC&NE Regulations, which were cited as grounds for rejecting the Appellant's directorship application. The Authorized Representative articulated how the decision was unjustified under these requirements, emphasizing that the Appellant meets all stipulated criteria necessary for the role.
4. The Respondents argued that in September 2020, there was a winding-up proceeding against National Bank Modaraba. They pointed out that the Appellant served as the Chairman of the Board of the Company from September 2017 to June 2018, citing this as a reason for deeming him unfit and improper. Furthermore, the Respondents asserted that under the law, if liquidation results from mismanagement of affairs, financial misconduct or malpractice, it can be attributed to a director. However, they acknowledged that no specific reasons were provided in the contested letter.
5. The Bench heard the arguments of the respective parties and perused the record. The Bench holds the view that the mere fact a company is in liquidation does not suffice to declare its directors as not 'fit and proper'. Furthermore, the Bench agrees that, as evidenced by the documents provided by the Appellant, the Company was already experiencing losses. The contention by the Respondent that these losses rendered the Appellant unfit and improper was unjustified. Additionally, building upon the arguments presented by the Appellant, the Bench is convinced that there was no justification under Schedule IX of the NBFC&NE Regulations for the Respondent's declaration that the Appellant was unfit and improper.



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6. In light of the foregoing reasons and upon thorough review of the record, the Appeal is hereby allowed and, accordingly, the Impugned Letter is directed to be set aside.

(Abdul Rehman Warraich)

Commissioner

(Akif Saeed)

Chairman/Commissioner

Announced on: 02 JUL 2024