



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH

In the matter of

Appeal No. 28 of 2018

M/s. Ashfaq Ashraf Securities (Private) Limited

...Appellant

Versus

The Commissioner (Securities Market Division),

Securities and Exchange Commission of Pakistan, Islamabad

...Respondent

Date of hearing:

16/09/19

Present:

For the Appellant via video conferencing:

i. Mr. Muhammad Ashfaq, CEO, M. Ashfaq Ashraf Securities (Pvt.) Ltd

For the Respondent:

i. Ms. Amina Aziz, Director (SMD)

ii. Ms. Mehwish Naveed, Management Executive (SMD)

ORDER

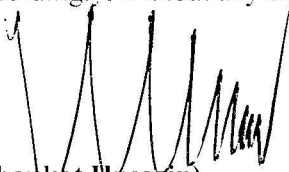
1. This Order is passed in the matter of Appeal No.28 of 2018, filed against the Order dated 26/05/17 (Impugned Order) passed by the Commissioner SMD-SECP (Respondent) under the Securities Brokers (Licensing and Operations) Regulations, 2016 (Regulations) read with the Securities Act, 2015 (the Act) whereby, M/s. Ashfaq Ashraf Securities (Private) Limited (Appellant) application for renewal of licence/registration as broker (Application) was refused.
2. The proceedings against the Appellant were initiated through a Notice dated March 20, 2017 (Notice) issued by Mr. Faisal Nawaz, Joint Director (JD). Thereafter, the JD also issued a hearing notice dated April 7, 2017 in furtherance to the Notice and advised the Appellant to attend hearing before the Respondent on April 12, 2017.
3. The Bench has, however, noted an anomaly during the proceedings of the case conducted by the Respondent. Regulation no. 10 of the Regulations empower the Securities and Exchange Commission of Pakistan (Commission) to grant or refuse the licence to a broker. The

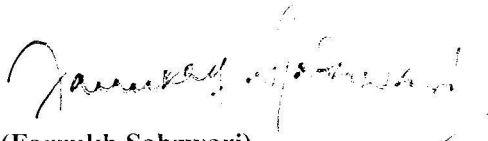


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Commission has delegated its powers to the Respondent vide S.R.O.123 (I)/2017 dated February 27, 2017 (SRO). As per the SRO, the Respondent was the only competent person to issue a show-cause notice and to conclude the proceedings through formal adjudication.

4. The Respondent has claimed that the Notice is not a show cause notice, however, the Bench has perused the contents of the Notice and decided to treat it as a show cause notice, a condition precedent to passing the Impugned Order. Therefore, instead of the JD, it should have been issued by the Respondent, who had the delegated jurisdiction and authority of the Commission to adjudicate the matter. The JD was not competent to issue Notice or show cause notice, therefore, the Bench is of the view that issuance of Notice by the JD has made the whole proceedings and the Impugned Order void *ab initio*.
5. The Appellant has submitted that they have already surrendered their licence, Pakistan Stock Exchange Limited (PSX) via notice as well as through letter dated 17th September 2019 addressed to department of the Respondent has also confirmed that the Appellant has ceased to be Trading Right Entitlement Certificate Holder (TREC) of PSX and their name has been removed from the register of TRE Certificate Holders with immediate effect.
6. In view of the foregoing, we hereby set aside the Impugned Order. The Appeal is disposed of accordingly, without any order as to cost.


(Shaukat Hussain)
Commissioner (Insurance)


(Farrukh Sabzwari)
Commissioner (AML)

Announced on: **24 SEP 2019**

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