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# DUE PROCESS IN SECURITIES REGULATION: BALANCING SEBI'S ENFORCEMENT POWERS WITH NATURAL JUSTICE AND PROCEDURAL FAIRNESS

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## I. ABSTRACT

*SEBI investigates, prosecutes, and adjudicates within the same institution, under a statutory design Parliament is now reconsidering: the Securities Markets Code, 2025, tabled in the Lok Sabha in December 2025, proposes to fold the SEBI Act into a single consolidated statute and attach fixed timelines to enforcement. That concentration of function buys speed, but it also puts pressure on the fairness of the process, since the same regulator that frames an allegation often decides, in the first instance, whether it holds. This paper asks how Indian courts and the Securities Appellate Tribunal have policed that pressure point, using four recent flashpoints: the Supreme Court's ruling in T. Takano v. SEBI on disclosure of investigation material, the Tribunal's late-2025 order in the Salgaocar-Ketan Parekh matter restoring a right to cross-examine, the Supreme Court's application of res judicata to SEBI's own repeat proceedings in SEBI v. Ram Kishori Gupta, and the unresolved question of how long an ex-parte interim order under Section 11(4) can survive before it becomes punishment without a hearing. Read together, these episodes show a regulator whose statutory toolkit, built for speed and market protection, keeps colliding with the demands of audi alteram partem and reasoned decision-making. The paper traces this doctrinal path from general administrative-law authority on cross-examination through to current SEBI practice, sets it against the constitutional due-process standard in Maneka Gandhi v. Union of India, and asks whether the Securities Markets Code, 2025 addresses the structural sources of that friction. It argues that SEBI's own procedural regulations, not case-by-case litigation alone, need*

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*to catch up, and closes with concrete proposals: a statutory outer limit on ex-parte orders, a calibrated disclosure rule distinguishing relied-upon material from the wider investigation file, and a clearer separation between the officers who investigate and those who decide.*

## II. KEYWORDS

SEBI; Natural Justice; Procedural Fairness; Securities Appellate Tribunal; Audi Alteram Partem.

## III. INTRODUCTION AND RESEARCH PROBLEM

The Securities and Exchange Board of India occupies an unusual constitutional position. It writes rules for the securities market, investigates suspected breaches of those rules, issues show-cause notices, and then, through its Whole Time Members, decides whether the breach occurred. [3] No other wing of government routinely combines quite so many roles in one body. Parliament built SEBI this way on purpose because Indian capital markets in the early 1990s needed a regulator that could move faster than a civil court and act before damage to investors became irreversible. That design choice has served the market well for three decades. It has also generated a steady stream of litigation asking a narrower question: once SEBI has decided to act quickly, how much process is a noticee still owed?

This is not an abstract puzzle. When SEBI passes an ad-interim ex-parte order under Section 11(4) of the Act, freezing a trading account or barring market access, the affected person has had no chance to respond before the order takes effect. [4] In the Salgaocar-Ketan Parekh front-running investigation, SEBI issued precisely such an order in January 2025 against twenty-two entities and then, months later, refused one of the noticees the chance to cross-examine the witness whose statements underpinned part of the case against him. [5] The Tribunal set that refusal aside in December 2025. The episode is not

[3]Securities and Exchange Board of India Act, 1992, No. 15 of 1992, ss 11, 11B, 15-I (India).
[4]SEBI Act, 1992, s 11(4).
[5]SAT Approves Ketan Parekh's Cross-Examination by Rohit Salgaocar, Business Standard (2 Dec. 2025).

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exceptional. It is one instance of a pattern that recurs across insider-trading, front-running, and market-manipulation cases: an order first, an explanation later, and a fight over how much of the underlying material the noticee gets to see before he has to answer it.

The doctrinal question sharpened considerably after the Supreme Court's 2022 decision in *T. Takano v. SEBI*, which held that a person facing SEBI proceedings is ordinarily entitled to the material the regulator relied upon, including internal investigation reports, subject to a genuine claim of confidentiality that SEBI must actually establish rather than merely assert. [6] Three years on, the Supreme Court returned to SEBI's internal procedure from a different angle in *SEBI v. Ram Kishori Gupta*, holding that res judicata bars SEBI from reopening a cause of action it has already finally decided: having let a 2014 order attain finality, SEBI could not revisit the same facts and the same parties through a fresh disgorgement order in 2018. [7] Both rulings push in the same direction: SEBI's efficiency mandate does not exempt it from the ordinary architecture of fair adjudication. What remains unsettled, and what this paper sets out to examine, is whether that architecture is now enforced consistently, or whether it still depends on which bench happens to hear a given notice's appeal.

The stakes go beyond any one case. SEBI's front-running and insider-trading enforcement docket has included several high-value, multi-year matters in recent years, and several of them now involve ex-parte interim action followed by a prolonged investigation. [8] A noticee can spend years locked out of the market on the strength of an order he never had a chance to contest before it was passed, waiting for a final order on a timeline the statute does not fix. Whether Indian law gives that noticee an adequate, timely, and predictable

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[6] T. Takano v Securities and Exchange Board of India, 2022 SCC OnLine SC 210, decided 18 Feb. 2022.
[7] SEBI v Ram Kishori Gupta, Civil Appeal No. 7941 of 2019 with connected appeals, decided 7 Apr. 2025, 2025 INSC 454, 2025 SCC OnLine SC 748.
[8] Rohit Salgaocar Approaches SAT as SEBI Refuses Cross-Examination of Ketan Parekh in Probe, Niftytrader (14 Nov. 2025).

set of procedural rights, rather than relief that depends on drawing the right SAT bench years later, is the research problem this paper addresses.

### A. Research Objectives

This paper sets out to:

1. Map the statutory sources of SEBI's investigative, ex-parte, and adjudicatory powers under the SEBI Act, 1992 and the regulations made under it.
2. Trace how the Securities Appellate Tribunal and the constitutional courts have applied the principles of natural justice, particularly audi alteram partem and the duty to give reasons, to SEBI's enforcement process.
3. Examine, through the Salgaocar-Ketan Parekh and Ram Kishori Gupta lines of authority, whether SEBI's current practice on cross-examination, disclosure, and internal consistency meets the standard the Supreme Court has set.
4. Assess whether the absence of a statutory time limit on ex-parte interim orders under Section 11(4) is compatible with procedural fairness.
5. Recommend specific changes to SEBI's procedural regulations that would reduce reliance on case-by-case litigation to secure basic due-process guarantees.

### B. Research Questions

1. What is the doctrinal basis on which courts have required SEBI to disclose investigation material and permit cross-examination, and how has that basis evolved from the early Tribunal rulings to T. Takano?
2. Does the absence of a fixed statutory limit on the duration of ex-parte interim orders under Section 11(4) violate the requirement of a fair and timely hearing?
3. What does SEBI v. Ram Kishori Gupta imply for SEBI's practice of revisiting a finalised enforcement decision through a fresh order against the same party on the same facts?

4. Would a formal separation between SEBI's investigative and adjudicatory functions, or a codified disclosure rule, reduce the volume of natural-justice litigation without slowing enforcement to an unacceptable degree?

### C. Research Hypotheses

1. Judicial intervention on SEBI's disclosure and cross-examination practice has been reactive and case-specific rather than the product of a settled procedural code, so similarly situated noticees receive materially different treatment depending on the timing and forum of their challenge.
2. The absence of a statutory outer limit on ex-parte interim orders under Section 11(4) allows what is meant to be an emergency, provisional measure to function, in practice, as a final penalty imposed without a hearing.
3. SEBI's existing internal checks, including Tribunal appeal and the constitutional writ authority, are sufficient correctives, and no further statutory or regulatory change is needed to bring SEBI's enforcement process into line with natural justice.

## Research Methodology

The methodology is primarily doctrinal, supplemented by a qualitative reading of recent SEBI and Tribunal orders and of contemporary legal reporting where no reported judgment yet exists. The primary sources are the SEBI Act, 1992, the SEBI (Procedure for Holding Enquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, the Securities Markets Code, 2025 as introduced in Parliament, and the leading judgments of the Supreme Court, the High Courts, and the Securities Appellate Tribunal on natural justice in securities enforcement. Constitutional due-process jurisprudence, particularly *Maneka Gandhi v. Union of India*, [9] supplies the general standard against which SEBI's sector-specific procedure is measured.

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[9]Maneka Gandhi v Union of India, (1978) 1 SCC 248.

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Because much of the material that shapes current practice sits in 2025-26 Tribunal orders and contemporaneous law reports rather than in fully reported case law, the paper draws on business and legal press coverage of the Salgaocar-Ketan Parekh proceedings and on practitioner commentary on the Ram Kishori Gupta ruling, and it identifies these as secondary, non-doctrinal sources wherever they are used. Claims about SEBI's general enforcement practice beyond the specific matters discussed are offered as informed observation drawn from that secondary material rather than as empirically established findings and are flagged as such.

The analysis is qualitative and comparative within Indian law; it does not attempt a cross-jurisdictional comparison with other securities regulators, though it notes points of contrast where relevant. Given that SEBI's disclosure practice following T. Takano, and the legislative fate of the Securities Markets Code, 2025, were both still unsettled at the time of writing, parts of the analysis are necessarily provisional.

### D. Literature Review

The tension between regulatory speed and procedural fairness in Indian administrative law is not new, and it did not originate with SEBI. The Supreme Court held, as far back as *State of Kerala v. K.T. Shaduli Grocery Dealer*, that a quasi-judicial authority which bases a finding on material supplied by a third party must let the affected person test that material, including through cross-examination, even in a tax-assessment setting with none of a criminal court's formality. [10]

That principle sits alongside a separate, and in some tension with it, line of authority giving regulators like SEBI considerable latitude on the substantive standard of proof. In *SEBI v. Kanaiyalal Baldevbhai Patel*, the Supreme Court held that mens rea is not an indispensable element of a securities-fraud finding and that a preponderance-of-probabilities test suffices, given the practical difficulty of securing direct evidence of

[10] State of Kerala v K.T. Shaduli Grocery Dealer, AIR 1977 SC 1627, (1977) 2 SCC 777.

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intent in market-manipulation cases. [11] A similar strict-liability, civil-in-character reading of SEBI's penalty provisions appears earlier still in *SEBI v. Cabot International Capital Corp.*, where the Bombay High Court held that a penalty under the SEBI Act is remedial rather than punitive and does not require proof of a guilty intention. [12] Commentators have long flagged the friction this creates: a lower substantive bar for finding liability makes the procedural safeguards around how that liability is established correspondingly more important, not less, which is exactly the gap that *Shaduli*-style cross-examination rights are meant to fill.

The 2022 *T. Takano* ruling is the most significant recent addition to this literature. The Supreme Court held that SEBI cannot withhold documents from a noticee merely by labelling them confidential; it must demonstrate an actual, specific harm from disclosure, and even then, the Tribunal or court can weigh that harm against the noticee's right to mount an effective defence. [13] Legal commentary following the judgment generally read it as closing a long-standing gap in SEBI's enquiry procedure, though practitioners also noted that the ruling left open exactly how much of an investigation report, as opposed to the specific material relied upon in the show-cause notice, a noticee is entitled to see.

The most recent addition to the field is the Supreme Court's ruling in *SEBI v. Ram Kishori Gupta*, decided in 2025, on which a detailed case note by practitioners at Cyril Amarchand Mangaldas is the fullest published account available at the time of writing. [14] The case itself involved SEBI revisiting, in 2018, a cause of action it had already brought to a final and unchallenged conclusion in 2014, and the Supreme Court held that res judicata barred the later order. The case note situates this alongside a broader concern, also visible in Tribunal rulings such as *Nirmal N. Kotecha v. SEBI* and *S.K. Chowdhary v. SEBI*, that

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[11]SEBI v Kanaiyalal Baldevbhai Patel, (2017) 15 SCC 1.
[12]Cabot International Capital Corp. v Adjudicating Officer, SEBI, Appeal No. 24 of 2000, order dated 25 Jan. 2001 (SAT), affirmed by the Bombay High Court in SEBI v Cabot International Capital Corp. (decided 3 Mar. 2004).
[13]T. Takano (n 4).
[14]Namita Shetty and Bharat Harne, Flummoxed by Finality: Supreme Court Reaffirms Applicability of Res Judicata to SEBI Proceedings, SCC Times (22 May 2025).

enforcement action proceeding under different provisions of the Act on the same underlying facts can produce outcomes that sit uneasily with one another. [15] The Supreme Court's answer in Ram Kishori Gupta, that res judicata binds SEBI's own quasi-judicial proceedings just as it binds any other adjudicating authority, is a significant doctrinal statement, but it is also, as the commentary notes, a statement about consistency after the fact rather than a structural fix to the underlying coordination problem.

News coverage of the Salgaocar-Ketan Parekh matter fills the remaining gap in the literature since the SAT order itself had not yet been reported in the standard law databases at the time of writing. The available reporting nonetheless establishes the key procedural facts clearly enough for doctrinal analysis: an ex-parte interim order in January 2025, a request for cross-examination in July 2025, a refusal by SEBI in August 2025 on the ground that Ketan Parekh's testimony was not the exclusive basis for the allegations, and a Tribunal order in December 2025 setting that refusal aside. [16]

# IV. RESEARCH AND ANALYSIS

## A. The Statutory Architecture: Investigation, Interim Action, and Adjudication in One House

SEBI's enforcement powers sit across several sections of the SEBI Act, 1992, each addressing a different stage of a case, but all housed within the same institution. Section 11 gives SEBI a mandate to protect investors and regulate the market. Section 11B allows it to issue directions, including cease-and-desist orders, in the interest of investors or the market. Section 11(4) authorises an ad-interim ex-parte order, without prior notice to the affected party, where SEBI is satisfied that urgent action is necessary. [17] Section 15-I then handed adjudication of monetary penalties to a separately designated Adjudicating

[15]Nirmal N. Kotecha v SEBI, 2021 SCC OnLine SAT 1613; S.K. Chowdhary v SEBI, 2023 SCC OnLine SAT 1503, cited in the case note as related instances of this concern; this paper has not independently reviewed the text of these two Tribunal orders.
[16]SAT Approves Ketan Parekh's Cross-Examination (n 3); Rohit Salgaocar Approaches SAT (n 6).
[17]SEBI Act, 1992, ss 11, 11B, 11(4).

Officer, following a procedure set out in the SEBI (Procedure for Holding Enquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995. Appeals from most of these orders lie to the Securities Appellate Tribunal under Section 15T, though the Supreme Court has clarified that purely administrative or legislative orders, as opposed to quasi-judicial ones, fall outside the Tribunal's authority altogether. [18]

The practical consequence of this design is that a single set of underlying facts can generate more than one SEBI proceeding, an interim direction under Section 11B and a penalty under Section 15-I, in some cases years apart, each moving on its own timeline and, historically, without a firm rule requiring the regulator to treat an earlier, final disposal of the matter as closing the door on a later one. That is the structural setting in which *Ram Kishori Gupta* arose: SEBI let a 2014 order attain finality and then, four years later, revisited the same cause of action through a fresh order. A noticee can lawfully find himself defending more than one proceeding about the same conduct, brought by different arms of the same regulator at separate times, with no single point at which the regulator is forced to commit to one final theory of the violation.

### B. What Natural Justice Requires of a Quasi-Judicial Regulator

The constitutional foundation for testing SEBI's procedure is not sector specific. It comes from the general due-process standard the Supreme Court set in *Maneka Gandhi v. Union of India*, which read Article 21's guarantee of a fair procedure into every exercise of state power that affects a person's rights, and required that the procedure actually be fair, not merely provided for by statute. [19] Applied to a body like SEBI, that standard translates into two familiar components of natural justice: a genuine opportunity to be heard before an adverse order takes effect, or as soon as reasonably possible afterward where urgency justifies delay, and access to enough of the case against a person to make that hearing meaningful rather than a formality.

[18]National Securities Depository Ltd v SEBI, 2017 SCC OnLine SC 256, decided 7 Mar. 2017.
[19]Maneka Gandhi (n 7).

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The Supreme Court supplied the doctrinal basis for the second half of that formulation well before SEBI existed: in *Liberty Oil Mills v. Union of India*, it held that where a statute authorises an authority to act first and hear the affected party afterward, the subsequent, or post-decisional, hearing must still be a real one, not a formality staged to validate a decision already made. [20] Section 11(4)'s design tracks this model directly: SEBI is expressly permitted to act first, and it does, in principle, allow the noticee to be heard after the fact.

Whether that subsequent hearing is genuine, and whether it arrives within a time limit that makes it worth having, is the question the rest of this section takes up. Reasoned decision-making, the third classical component, sits alongside these two and requires SEBI's orders to show the connection between the evidence gathered and the conclusion reached, so that an appellate body can review the reasoning rather than simply the outcome.

SEBI's own defenders point out, correctly, that no regulator can offer the full procedural apparatus of a criminal trial to every noticee without losing the speed that justified its creation in the first place. The market moves in minutes; SEBI's investigations often take years. The question this paper is concerned with is narrower than a demand for criminal-trial-level process: it is whether SEBI's current practice gives noticees the specific, well-established minimum that natural justice requires, cross-examination where evidence is genuinely contested, disclosure of the material actually relied upon, and a time-bound rather than open-ended period of provisional restraint, or whether noticees are instead left to litigate each of those entitlements from scratch in every case.

### C. Ex-Parte Interim Orders and the Problem of the Order That Never Ends

Section 11(4) should be an emergency of power. In practice, an ex-parte interim order can remain in force for years while SEBI completes its investigation, is challenged, remanded,

[20]Liberty Oil Mills v Union of India, (1984) 3 SCC 465.

and reissued. The Salgaocar-Ketan Parekh matter illustrates the pattern: SEBI's ex-parte interim order-cum-show-cause notice was issued in January 2025 against twenty-two entities, and by the time the Tribunal ruled on the cross-examination question in December of the same year, the underlying investigation, and the restraint that came with it, was still ongoing. [21] Nothing in the Act tells SEBI, or the noticee, how long that interim state of affairs may lawfully continue.

This is not a new complaint. As far back as the 2012-14 mid-cap crash cases, the Tribunal was already pressing SEBI to commit to a firm deadline for completing investigation, passing a final order, and warning that it would not keep granting extensions indefinitely. [22] More than a decade later, the underlying gap in the statute, no fixed outer limit on Section 11(4) orders, remains exactly where it was. The Tribunal can and does press individual regulators to move faster in individual cases, but that is supervision after the fact, applied unevenly across benches and years, rather than a rule a noticee can point to one day one of a restraint.

### D. The Right to Cross-Examination: General Doctrine and the Salgaocar Dispute

The general administrative law principle is not new. *State of Kerala v. K.T. Shaduli Grocery Dealer* already established, in a tax-assessment setting decided in 1977, that a quasi-judicial authority relying on third-party material to make a finding against a person must give that person a fair chance to test the material, including, where the material takes the form of a witness's statement, an opportunity to cross-examine. [23] SEBI proceedings, though governed by their own statute and regulations, sit squarely within this general framework, and Tribunal practice over the years has applied a version of the same principle: a noticee should ordinarily be allowed to cross-examine a witness whose

[21] SAT Approves Ketan Parekh's Cross-Examination (n 3).
[22] Midcap Case: SAT Asks Sebi to Pass Final Order on Two Entities, Business Standard (2014).
[23] State of Kerala v K.T. Shaduli Grocery Dealer (n 8).

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statement SEBI relies upon, subject to SEBI's ability to resist the request where the statement is genuinely peripheral to the case.

That qualification, that cross-examination can be resisted where the contested testimony is not central, has become the practical battleground. SEBI's own approach has been to resist requests wherever it can plausibly say the contested testimony was not the sole basis for its case, a formulation that gives the regulator considerable room to define its own theory of the evidence in a way that avoids the obligation. That is exactly the ground SEBI relied on in 2025 when it refused Rohit Salgaocar's request to cross-examine Ketan Parekh, arguing that it had not drawn any conclusion exclusively from Parekh's testimony and that independent evidence, including Bloomberg chat records, already established the alleged exchange of non-public information. [24]

The Tribunal set that refusal aside in an order reported in early December 2025. The order is not yet available through the standard law reports, so this paper relies on contemporaneous business-press reporting of its outcome and reasoning rather than the text of the order itself, and the characterisation that follows should be read with that limitation in mind.

On the reporting available, the decision can be read as resisting a purely formal inquiry into whether the contested statement was the exclusive evidentiary basis for the case, and as requiring attention instead to the statement's substantive role in the allegations against the noticee. Read that way, the ruling is an application of the general Shaduli principle to a securities-enforcement setting, rather than the announcement of a new test; but it is a significant application, because it resists the 'not the sole basis' formulation that would otherwise let SEBI insulate a statement from challenge simply by pointing to other, independent evidence.

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[24] Rohit Salgaocar Approaches SAT (n 6).

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The same proceeding, however, has since produced a narrower procedural ruling. On 24 August 2026, SAT dismissed Ketan Parekh's separate appeal seeking permission to cross-examine two Capital Group traders, after SEBI submitted that their statements had not been used to draw an adverse inference against him and that the matter had already been reserved for orders. The Tribunal treated the timing of the request as decisive, observing in substance that once a matter is reserved, the remaining remedy is to challenge the final order. This later order does not necessarily contradict the December 2025 Salgaocar ruling, because it turned on procedural timing and the asserted non-reliance on the traders' statements rather than on the substantive centrality of a relied-upon witness.

It does, however, complicate the narrative of uniform judicial correction. Even within the same front-running proceeding, cross-examination has been granted in one appeal and refused in another on a different procedural footing, which reinforces H1's claim that procedural protection in SEBI matters remains case-specific, timing-sensitive, and dependent on how the Tribunal characterises the role of the contested evidence.

### E. Disclosure of Investigation Material After T. Takano

Before 2022, SEBI's practice on disclosure varied by bench and by case, and noticees frequently found themselves responding to a show-cause notice without ever seeing the investigation report that generated it. *T. Takano v. SEBI* addressed that gap directly. The Supreme Court held that a person facing SEBI action is ordinarily entitled to relevant material the regulator has relied upon, that a bare claim of confidentiality is not enough to withhold it, and that SEBI must instead show a specific, articulable reason, such as protection of a genuine informant or a third party's unrelated commercial secrets, before withholding any part of the record. [25]

Commentary following the ruling treats it as a meaningful correction to SEBI's earlier practice of withholding investigation reports on a blanket of confidentiality claim. What

[25] T. Takano (n 4).

the ruling does not resolve, and what continues to generate litigation, is the line between the material actually relied upon in the notice, which *T. Takano* clearly covers, and the wider investigation file, which may contain material never referenced in the notice at all, including material that could assist the noticee's defence. A noticee has an obvious interest in seeing anything exculpatory the investigation turned up, whether or not SEBI chose to rely on it, but the judgment's own language ties the disclosure obligation to material SEBI itself used to found the show-cause notice, leaving the broader question of unused material to future litigation rather than settled rule. Any proposal to codify a disclosure standard, including the one this paper makes below, needs to keep that distinction, between relied-upon material and the wider file, clearly in view rather than treating *Takano* as having settled both questions at once.

### F. Finality and the Res Judicata Problem

SEBI v. Ram Kishori Gupta arose from a protracted dispute overcompensation for investors misled by advertisements issued by Vital Communications Limited. SEBI passed an order on 31 July 2014 that went unchallenged and attained finality; SEBI then, in 2018, issued a further disgorgement order addressing the same cause of action against the same parties. [26] The Supreme Court held that the entire exercise culminating in the 2018 order was unsustainable, because the underlying compensation claim had already been conclusively determined and could not be reopened. In doing so, the Court rejected SEBI's argument that res judicata, developed for civil courts, has no place in the internal workings of an administrative regulator, and held that the principle, including constructive res judicata, applies to SEBI's own quasi-judicial proceedings under the Code of Civil Procedure framework by analogy.

The holding is narrower than a general rule that any disagreement between a Whole Time Member and an Adjudicating Officer is automatically barred by res judicata; what the Court actually condemned was SEBI revisiting a cause of action it had already brought

[26]SEBI v Ram Kishori Gupta (n 5).

to a final and unchallenged conclusion. Even on that narrower reading, the case sits alongside a broader pattern the Tribunal has separately flagged, in which enforcement action proceeding under different sections of the Act on the same underlying facts has produced results that sit uneasily with one another. [27] Res judicata stops SEBI from relitigating a cause of action it has already finally decided, but it does not, on its own, resolve the coordination problem that arises when SEBI initiates enforcement under more than one provision of the Act against the same conduct before either proceeding has become final.

### G. The Securities Markets Code, 2025: A Legislative Response in Progress

Any assessment of SEBI's due-process architecture written in 2026 must reckon that the underlying statute is under active legislative reconsideration. The Securities Markets Code, 2025, tabled in the Lok Sabha in December 2025 and referred to the Parliamentary Standing Committee on Finance, proposes to repeal and consolidate the SEBI Act, the Securities Contracts (Regulation) Act, 1956, and the Depositories Act, 1996 into a single statute. [28] Public summaries of the Bill describe, among other things, a fixed outer limit on the duration of investigations and a codified grievance-resolution timeline, framed in some commentary as an eight-year investigation limit and a revived Ombudsperson mechanism with a one-hundred-and-eighty-day resolution target. [29]

If those features survive the Standing Committee's review and are enacted in substantially their present form, they will address a significant part of the gap this paper identifies. The Bill does not merely prescribe an overall investigation timeline; it also limits the validity of interim orders to one hundred and eighty days, or six months, with extension permissible only upon reasoned review and subject to an outer ceiling of two

[27]See Nirmal N. Kotecha v SEBI, 2021 SCC OnLine SAT 1613; S.K. Chowdhary v SEBI, 2023 SCC OnLine SAT 1503.
[28]Securities Markets Code, 2025.
[29]The Securities Markets Code Bill: Consolidation, Clarity and the Future of India's Capital Markets, Bar & Bench (Dec. 2025); Securities Markets Code Bill, Lexplosion Solutions (2025-26).

years where adjudication, inspection, or investigation remains pending. The due-process question therefore shifts from whether the Code recognises the problem to whether its cap-with-extension model is sufficiently protective. A two-year interim restraint may still be onerous where the affected person is effectively kept out of the market before final liability is determined, particularly if extensions become routine or are justified through broad market-impact reasoning. The Code is therefore best read as a partial but important legislative response: it recognises the need to discipline interim orders, but its adequacy will depend on how strictly SEBI and the appellate forum apply the requirements of written reasons, periodic review, and proportionality.

### H. Reading the Pattern Together

Across the episodes examined here- ex parte orders without a fixed time limit, contested cross-examination, disputed disclosure, and a cause of action reopened after it had already been finally decided- the pattern is the same. SEBI's statutory design gives it wide discretion at the point of decision, and Indian courts have consistently stepped in afterwards to correct specific abuses of that discretion once a notice litigates far enough to reach the Tribunal or the Supreme Court.

What has historically been missing is a set of rules that would give a noticee those protections from the outset, without requiring years of appellate litigation. The Securities Markets Code, 2025 partly responds to that deficiency by proposing statutory limits on interim orders and a case-level disqualification rule separating investigation from adjudication. The remaining question is whether these safeguards are sufficiently robust in practice, especially where extensions, confidentiality claims, and contested witness statements continue to shape the fairness of SEBI proceedings.

Whether the Securities Markets Code, 2025 closes that gap, or simply relocates the same provisions into a new statute, is a question that will only be answered once the Bill's final text and SEBI's implementing regulations are known.

**Table 1:** Timeline of Key Due-Process Authorities Affecting SEBI's Enforcement Practice, 1977-2026

| Year | Case / Event | Contribution to Due-Process Doctrine |
|---|---|---|
| 1977 | State of Kerala v. K.T. Shaduli Grocery Dealer (SC) | General administrative-law authority requiring cross-examination where a quasi-judicial body relies on third-party statements. |
| 2001/2004 | Cabot International Capital Corp. v. SEBI (SAT/Bombay HC) | Held penalties under the SEBI Act to be civil and remedial in character, not requiring proof of mens rea. |
| 2014 | Mid-cap crash cases (SAT) | Tribunal pressed SEBI for a firm deadline to complete investigation and pass final orders. |
| 2017 | SEBI v. Kanaiyalal Baldevbhai Patel (SC) | Held mens rea dispensable; applied a preponderance of probabilities standard. |
| 2021-23 | Nirmal N. Kotecha; S.K. Chowdhary (SAT) | Identified in later commentary as related instances of inconsistent outcomes across SEBI's enforcement provisions. |
| 2022 | T. Takano v. SEBI (SC) | Required disclosure of relied-upon investigation material absent from a specific, proven confidentiality justification. |

| Year | Case / Event | Contribution to Due-Process Doctrine |
|---|---|---|
| 2025 | SEBI v. Ram Kishori Gupta (SC) | Held SEBI could not reopen a cause of action it had already brought to a final, unchallenged conclusion. |
| 2025 | Salgaocar v. SEBI (SAT) | Set aside SEBI's refusal to permit cross-examination despite SEBI's claim of independent corroborating evidence. |
| 2025-26 | Securities Markets Code, 2025 (Bill) | Proposes consolidating SEBI's governing statutes and attaching fixed timelines to enforcement before a Parliamentary Standing Committee at the time of writing. |

Source: Compiled by the author from the judgments and Tribunal orders and secondary reporting cited in this paper.

## V. SUGGESTIONS AND RECOMMENDATIONS

First, Parliament should refine the interim-order mechanism already proposed in the Securities Markets Code, 2025. The Bill’s one-hundred-and-eighty-day validity period for interim orders is a welcome statutory correction to the open-ended character of the present Section 11(4) regime. However, the proposed power to extend such orders up to two years should be more tightly conditioned. Any extension should follow a hearing, be supported by written and case-specific reasons, and demonstrate why a less restrictive measure would not adequately protect investors or market integrity. This would preserve SEBI’s emergency powers while reducing the risk that an interim restraint operates, in substance, as a prolonged penalty before final adjudication.

Second, SEBI's enquiry regulations should codify a graduated disclosure standard built on, but more precise than *T. Takano*. The regulations should distinguish at least three categories: material actually relied upon in the show-cause notice, which should be disclosed as a matter of course; material in the investigation file that is not relied upon but is reasonably capable of assisting the notice's defence, which should be disclosed on request unless SEBI shows specific, document-level harm from disclosure; and genuinely confidential material, such as an informant's identity or an unrelated third party's commercial secrets, which may be withheld but only with written, document-specific reasons recorded at the time of withholding. Codifying this distinction would remove the present uncertainty about whether *Takano* reaches the wider investigation file; an uncertainty this paper has flagged rather than resolved.

Third, the standard for permitting cross-examination should follow the reading of the Salgaocar order this paper has proposed above: a notice should ordinarily be entitled to cross-examine a witness whose statement is meaningfully relied upon in the impugned order, whether or not other evidence also exists, unless SEBI can show a specific, case-particular reason the examination cannot fairly be permitted. This should be stated as a rule in SEBI's own enquiry regulations rather than left to be argued afresh in each Tribunal appeal.

Fourth, in light of Ram Kishori Gupta, the Securities Markets Code, 2025 should be supplemented by clearer consolidation and election rules for proceedings arising from the same factual matrix. The Bill addresses part of the conflict-of-function problem by preventing a person involved in inspection, investigation, settlement consideration, interim action, or appointment decisions from adjudicating the same case. However, it does not fully resolve the risk of parallel or sequential proceedings under different enforcement tracks producing inconsistent outcomes before finality attaches. SEBI should therefore be required, at the show-cause stage, to identify whether the matter will proceed through directions, monetary penalty adjudication, or a consolidated route, and to record reasons where separate proceedings are considered necessary. This would reduce the burden on res judicata to cure inconsistencies only after avoidable duplication has already occurred.

Fifth, the case-level firewall proposed in the Securities Markets Code, 2025 should be retained and strengthened during legislative review. The Bill rightly disqualifies a person from adjudicating a matter where that person has authorised or conducted the inspection or investigation, decided the appointment of the adjudicating officer, considered settlement, or passed an interim order in the same case. This is a significant improvement over the present statutory framework. Its limitation, however, is that it remains a case-specific disqualification rule rather than a structurally separate adjudicatory cadre of the kind contemplated in broader financial-sector reform debates. SEBI should therefore operationalise the rule through transparent case-allocation norms, written conflict checks, and an express statement in final orders confirming that the adjudicating officer had no prohibited prior role in the matter. This would preserve SEBI's capacity for urgent market intervention while strengthening confidence that final liability is determined by an officer functionally removed from the investigative process.

## VI. CONCLUSION

SEBI was built to move fast, and Indian capital markets are better for it. But speed and fairness are not naturally opposed, and the case law traced in this paper shows Indian courts steadily narrowing the space in which SEBI can treat them as if they were, even as the pattern identified in Section 7.8 keeps recurring. General administrative-law doctrine going back to Shaduli requires cross-examination where a contested statement is meaningfully relied upon; T. Takano forced real disclosure rather than a bare confidentiality label; Ram Kishori Gupta told SEBI it cannot reopen a cause of action it has already brought to a final, unchallenged conclusion; and the Tribunal's 2025 order in Salgaocar resisted SEBI's attempt to defeat a cross-examination request merely by pointing to other, independent evidence.

The subsequent 24 August 2026 SAT order in the same broad proceeding, rejecting Ketan Parekh's request to cross-examine two Capital Group traders after the matter had been reserved, shows that this protection is not automatic and may turn on timing, reliance, and procedural posture. Each of these is a defensible result on its own facts, but none of them, on its own or together, gives a notice facing a fresh SEBI show-today cause notice a written answer in advance to the questions this paper has traced. The Securities Markets Code, 2025, still before a Parliamentary Standing Committee at the time of writing, may eventually answer part of that gap; on the public material available, it does not yet answer all of it.

That is the gap this paper has tried to name precisely: not a failure of judicial doctrine, which has moved in a defensible direction case after case, but a failure to convert that doctrine into a procedural code SEBI applies from the outset rather than concedes on appeal. A regulator that investigates, prosecutes, and judges within one institutional house can still be a fair one, provided the separation of functions is meaningful at the point of decision.

The Securities Markets Code, 2025 takes an important step in that direction by disqualifying persons involved in inspection, investigation, settlement consideration, interim action, or appointment decisions from adjudicating the same case. The remaining task is to ensure that this case-level firewall is applied rigorously and supplemented by clearer rules on disclosure, cross-examination, and review of interim restraints, rather than leaving noticees to secure those protections only through prolonged appellate litigation.

Set against the hypotheses in Section 4, the analysis above supports H1: relief on disclosure and cross-examination has come case by case, from Takano to Salgaocar, rather than from a settled procedural code, and similarly placed noticees have depended on the timing, forum, and procedural posture of their challenge. The contrast between the December 2025 Salgaocar order permitting cross-examination and the 24 August 2026 Parekh order refusing a related cross-examination request within the same proceeding strengthens, rather than weakens, this conclusion. It also supports H2: an ex-parte order under Section 11(4) carries no fixed outer limit, and the Salgaocar matter shows such an order remaining in effect well past the point an emergency measure would ordinarily be expected to end. H0, that SEBI's existing checks are sufficient and no further change is needed, is not supported: Tribunal appeal and the writ jurisdiction have corrected specific abuses only after they occurred, at a cost in time and resources that a noticee should not have to bear merely to obtain what natural justice already requires.

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