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 Ashley Coutinho Updated - March 26, 2024 at 10:06 PM.

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# Absence of full Bench mars functioning of SAT

Most of the matters that have come up at the Securities Appellate Tribunal (SAT) in the past few weeks have been adjourned due to non-availability of the Bench, with no final hearings.

A SAT Bench is supposed to consist of three members that includes a presiding officer and a technical member.

According to current norms, at least one judicial member is required to pronounce a final order. The tribunal's presiding officer Justice Tarun Agarwala retired and demitted office on December 29. Justice MT Joshi vacated his office in February last year.

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In the absence of judicial member, the technical member has been giving interim relief to litigants in new matters that have come up for hearing.

**Implications**

“Non-availability of a complete Bench has various implications including increased backlog of cases and inefficiencies in the judicial process,” said Sumit Agrawal, Founder, Regstreet Law Advisors.

“Tribunals were primarily created to ensure speedy adjudication of cases. In the absence of a judicial member, matters cannot be finally disposed of, and pendency of cases will continue to rise,” added Pulkit Sukhramani, Partner, JSA, a law firm.

The Ministry of Finance had issued a vacancy circular for selecting the presiding officer on August 14 last year. The person has to be a former judge of the Supreme Court or a chief justice of the High Court. The selection would be done by a search-cum-selection committee.

“Once appointed, the incoming member will be burdened with a large number of pending cases. The tenure of the members at SAT is known at the time of appointment itself. The government must ensure that the appointment of a new member takes place around the time the previous member’s term is ending,” said Sukhramani.

Cases such as Bombay Dyeing and Franklin Templeton which were argued before the previous Bench and in which orders have not been passed, will have to be argued afresh before the new Bench.

“There are concerns regarding the fate of cases that have been finally heard previously by the full Bench but are awaiting orders. These will require re-hearing by the new Bench. Ensuring swift appointments to maintain continuity in case hearings and minimise disruption in the judicial process, is the need of the hour,” said Agrawal.

#### **Ways to move HC**

According to Sukhramani, parties are likely to find innovative ways to approach the High Court in matters where urgent reliefs may be required. However, scope of reliefs that can be prayed in writ proceedings is different from what can be prayed before SAT, he said.

SAT hears appeals against orders passed by the [Securities and Exchange Board of India](#), the Insurance Regulatory and Development Authority of India and the Pension Fund Regulatory and Development Authority.

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