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PROVING INSIDER TRADING: SEBI'S EVIDENTIARY DILEMMA

~ *Sonali Panigrahi*

ABSTRACT - Insider trading undermines the integrity of capital markets and challenges the fairness of investor participation. In India, the Securities and Exchange Board of India enforces the Prohibition of Insider Trading Regulations, 2015, to curb the misuse of unpublished price sensitive information (UPSI). However, SEBI's heavy reliance on circumstantial evidence in enforcement proceedings has led to inconsistent outcomes and frequent judicial reversals. This article examines SEBI's evidentiary approach through an analysis of recent cases. It highlights key deficiencies in SEBI's proof-gathering framework and argues for integrating digital forensics, transparency standards, and a graded evidentiary matrix. The article concludes that while circumstantial evidence remains irrefutable, regulatory effectiveness depends on strengthening direct evidence mechanisms and procedural consistency to ensure credibility and investor confidence.

Key words: Insider Trading | SEBI | Circumstantial Evidence | Market Regulation | Evidentiary Standards

1. Introduction – Among all the issues that threaten the integrity of the financial markets, Insider trading takes the forefront. It is trading on the basis of unpublished price sensitive information of stocks. Insider trading not only undermines the confidence of investors, but it also distorts principles of a fair market. In India, the Securities and Exchange board of India enforces the '*Prohibition of Insider Trading Regulations, 2015*'. The aim of this regulation is to prevent unfair advantage which arises from UPSI. The enforcement of these regulations actually depends on nature and quality of the evidence produced. It has been noted that there is a significant reliance on circumstantial evidence while proving violations.

It is true that circumstantial evidence allows SEBI to be flexible in establishing violations in those cases where direct evidences might be scarce. Still, the framework is challenged due to lack of consistency, no transparency in fairness, and from judicial scrutiny. Many of SEBI's orders have been overturned or modified by the higher courts and Securities Appellate Tribunal. The reason was same – insufficiencies were noticed in the evidences. This ordeal highlights the need to examine SEBI's approach to circumstantial evidences and compare it with global markets like the U.S.A and the U.K. We need to consider the potential reforms which can enhance effectiveness and fairness. This article focuses on the evidentiary challenges that arise during enforcement of Insider trading regulations by SEBI. Some significant cases from years 2020-present are discussed here. The evidentiary standards of SEBI are also compared with market approaches on U.S. Securities and Exchanges Commission and the U.K. Financial conduct authority, in order to find gaps in our regulatory framework.

The total volume of insider trading cases handled by SEBI is very large. Attempting to cover each and every case would be really time consuming. Instead, some high profile and illustrative

cases from the past 5 years (2020-2025) have been chosen to give significant insights. The reason behind choosing these cases is simple – they demonstrate how outcomes are influenced by type of evidence presented. By focusing on these prominent judgments, we are able to showcase patterns and highlight the legal gaps.

2. Background and context – The regulations for Insider trading has seen quite a development in the past few years. The 2015 PIT Regulations replaced the 1992 regulations. It has introduced clearer definition of Insider and UPSI¹. It also introduced compliance mechanisms like trading windows, pre clearance of trades and code of conduct.

Yet, the SEBI has mostly relied on circumstantial evidence while investigating insider trading cases. It is true that timing of trades and proximity of relationship might help narrow down potential cases. But they are not substitution to having direct proof of UPSI transmission. The Security Appellate tribunal has scrutinized this approach of SEBI in prominent cases like Balram Garg vs SEBI and FCRPL and Others vs SEBI. In these cases the SEBI's orders were overturned by the court.

It raises a rather important question. *Why does SEBI prefer Circumstantial evidences?* Circumstantial evidence give flexibility to carry on proceedings without waiting for direct evidences. As Insider trading is a closed-door crime, direct witnesses and written confessions are not accessible. In these cases, circumstantial evidence becomes the only option viable. Also, the current standard for SEBI is preponderance of probabilities.

However, these methods risks punishing trades that look suspicious but are not illegal. And that's how the orders of SEBI get quashed by the court.

3. Legal frameworks of prominent Markets – Let's understand the law and regulations around the world. USA and UK have traditionally been global investment hot-spots. Hence, comparing their regulations with those of SEBI will certainly give us more insights.

In the USA, the market regulation are overseen by Securities and Exchange Commission. Insider trading is governed by **Rule 10b5-1** under the **Securities Exchange Act, 1934**. Its emphasis lies on intent and misuse of material non-public information. It often requires direct evidences such as emails, internal documents, witness testimonies etc. It also uses cooperation agreements, whistle-blower incentives and surveillance mechanisms to strengthen its position. There is a high success rate of enforcement as direct evidence is available². Meanwhile, the British market is regulated by the Financial Conduct Authority. FCA enforces the **Market Abuse Regulation**³. It uses surveillance tools and analyses the data to detect unusual trading patterns. The emphasis is more on direct evidence. Our SEBI has implemented the **Prohibition of Insider Trading Regulations, 2015**. It prohibits people having unpublished Price sensitive information from trading. Individuals such as directors, officers and key stakeholders are presumed to be performing Insider trading if they trade while possessing UPSI. However, as it has been established by the hon'ble supreme court in Balram Garg vs SEBI (2022), a person cannot be held guilty of Insider trading on the grounds of possessing UPSI. A clear link has to

¹ Securities and Exchange of India (Prohibition of Insider Trading) Regulations, 2015. SEBI.

² U.S. Securities and Exchange Commission. *SEC Enforcement Results 2024*, 2024.

³ Financial Conduct Authority. *FCA Enforcement Data 2024/25*.

exist between the facts that a person has access to UPSI and that he has performed trade in the same window. Only based on circumstantial evidence, one cannot be accused of possessing UPSI. The court held that there needs to be concrete proof of communication⁴.

4. Evidentiary challenges – To achieve a better understanding of this, let's analyze the trend observed in some significant cases recorded in the past five years. The data here has been taken from the official sources of SEBI and credible financial tabloids.

S. no	Insider trading case	Year	Type of evidence	Outcome	Overturned / Quashed	Reason
1	Balram Garg/ PC Jeweller ⁵	2022	Circumstantial	SEBI order challenged at SC	Yes	Supreme court held that mere possession of UPSI is insufficient. The trading link was not established clearly by the SEBI.
2	Zee Business tip based case ⁶	2025	Circumstantial, tip-based	SEBI barred the entities involved in the trading and imposed penalty on them.	No	The trades were found to be based on advanced tips and hence the direct connection was recognized.
3	Rajesh Mokashi / CARE Ratings ⁷	2025	Circumstantial	SEBI debarment was overturned by SAT	Yes	SAT criticised SEBI for insufficient evidence. The order based on inference was overturned.
4	Chanda Kochhar/ ICICI Bank –	2020	Circumstantial	SEBI's insider trading charge was not established conclusively.	Partially	SEBI failed to establish a direct link between the possession of UPSI

⁴ Acuity Law. *Ambiguities in SEBI's Insider Trading Amendment*.

URL: <https://acuitylaw.co.in/ambiguities-in-sebis-insider-trading-amendment-a-closer-look-at-sharing-household-or-residence/>

⁵ Balram Garg v. SEBI, civil appeal no. 7054 of 2021, [Balram Garg v. Securities and Exchange Board of India – Supreme Court Cases](#)

⁶ Livemint news report – 09/02/2024, [SEBI bars 15 guest experts of Zee Business, fines them ₹7.41 crore | Stock Market News](#)

⁷ *The Eco. Times*, SAT quashes Sebi ban on former Care Ratings MD, Jul. 2, 2025

URL - https://economictimes.indiatimes.com/markets/stocks/news/sat-quashes-sebi-ban-on-former-care-ratings-md/articleshow/122193647.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

(last visited Nov. 12, 2025)

	Videocon case ⁸			Proceeding against certain individuals were dropped.		and actual trades done by the accused.
5	Sun Pharma Ltd./ Management trades ⁹	2020	Internal reports, emails	SEBI order was upheld.	No	Direct evidence of management accessing UPSI before trading was found. Hence, the SEBI enforced penalties and disgorgement.
6	M/s SRBC and co. case ¹⁰	2017-2024	Circumstantial, email	SAT imposed a penalty of Rs. 1,00,000/- on SEBI.	Yes	SAT found arguments of SEBI regarding employee behaviour absurd.
7	Prannoy and Radhika Roy ¹¹	2020 – 2023	Circumstantial	SAT overturned SEBI's 2020 order that held the former NDTV promoters guilty of Insider trading.	Yes	Tribunal found that the information scrutinized by SEBI was not price sensitive. It was also held that the Roys were not insiders as they had received pre-trade clearance from NDTV's compliance officer.
8	Lux Industries Ltd. ¹²	2022	Circumstantial, trade pattern analytics	SEBI's interim order restrained 14 entities. A confirmatory order was soon followed.	No	SEBI alleged a coordinated build up of long positions by connected entities before quarterly

⁸ *Finsec Law Advisors*, Finsec Case Digest on 'Chanda Kochhar v. Securities and Exchange Board of India', May 23, 2025
 URL : [Finsec Case Digest on 'Chanda Kochhar v. Securities and Exchange Board of India'](#) (last visited Nov. 12, 2025)

⁹ Settlement order in respect of Sun SEBI, 11/02/2021, [Settlement Order in respect of Sun Pharmaceutical... | SEBI | Judgment | Law | CaseMine](#)

¹⁰ *Moneylife*, SAT Raps, Imposes Rs1 Lakh Cost on SEBI for Passing 'Mechanical Order' against Infibeams Auditor SRBC & Co, Dec. 7, 2024
 URL: [SAT Raps, Imposes Rs1 Lakh Cost on SEBI for Passing 'Mechanical Order' against Infibeams Auditor SRBC & Co](#) (last visited Nov. 13, 2025)

¹¹ *PGurus*, SAT dismisses SEBI's order against Prannoy Roy, Radhika Roy in insider trading case, Oct. 5, 2023
 URL- [Insider Trading Case: SEBI's Order Against Prannoy Roy, Radhika Dismissed](#) (last visited Nov. 13, 2025)

¹² SEBI order, 27/05/2022, [SEBI | Confirmatory Order in the matter of insider trading in the shares of Lux Industries Ltd.](#)

							results. Inference for this case was based on trading patterns and relationships.
9	Infosys/ Wipro employees ¹³	2021	Circumstantial, Digital	Interim confirmatory orders of SEBI upheld.	and stayed	No	Digital evidences included emails and calls. They were reasonable enough.
10	Kishore Biyani/ Future retail ¹⁴	2023	Circumstantial	SAT quashed SEBI order.		Yes	Information was publicly available. Hence, it was held that trading was not done on UPSI.

From the above data, a few conclusions can be drawn. Around 50% of the total cases mentioned above, have been either quashed or overturned by courts and SAT. The common reason is inability of SEBI to link the circumstantial evidence to actual trading. SEBI has often relied on circumstantial evidence. It can definitely indicate probable misuse. But courts emphasize on concrete proofs. And it has been a recurring pattern that a lot of the cases were dismissed as SEBI couldn't prove the allegations against the supposed Insider traders. The cases that were not overturned had one common theme. In addition to the circumstantial evidences, they had some other direct evidences too. Still, SEBI lacks any uniform procedure to collect, authenticate and present the digital evidences.

SEBI's technique's are unique in their own way. While there are a significant number of cases where circumstantial evidence has been proven to be effective, we cannot overlook how there have been a large number of cases where circumstantial evidences didn't work in favour of SEBI. The biggest hindrance here is proving that trade violations have occurred. In such cases, having direct evidences increase the chances of proving the offense. It has been seen in the case of SEC. It relies on direct evidences and structured tools for investigations. Wiretaps and analysis of internal communication often gives direct proof of misuse of insider information. Moreover, cooperation agreements and programs for whistle-blowers, like protection under the Dodd-Frank Act, 2010, encourages the insiders to provide solid evidence. Automated detection of unusual trade and early intervention prevents large scale insider trading. These practices have a higher success rate and lower risk of being overturned by the courts.

¹³ SEBI order, 27/09/2021, [SEBI | Interim Order in the matter of insider trading by employees of Infosys Limited and Wipro Limited in the shares of Infosys Limited](http://sat.gov.in/english/pdf/E2021_JO2021668_4.PDF) [SAT Appeal No.: http://sat.gov.in/english/pdf/E2021_JO2021668_4.PDF] [668/2021 & Misc. App No. 1216/2021](http://sat.gov.in/english/pdf/E2021_JO2019505.PDF) [SAT Appeal No.: http://sat.gov.in/english/pdf/E2021_JO2019505.PDF] [505/2019 & Misc. App. No. 556/2019](http://sat.gov.in/english/pdf/E2021_JO2019505.PDF)]

¹⁴ *Bus. Standard*, SAT quashes Sebi's order against Biyani, others in insider trading case, Dec. 20,2023 URL: [SAT quashes Sebi's order against Biyani, others in insider trading case | News on Markets – Business Standard](https://www.business-standard.com/news/markets/sat-quashes-sebi-s-order-against-biyani-others-in-insider-trading-case) (last visited Nov. 13, 2025)

4. The way forward – Reliance on circumstantial evidences isn't bad. But it often cannot be used to provide concrete evidence of tradings. And due to this loophole, a lot of insider trade offenders get a clean chit from the court. Hence, it is better to rely more on direct evidences. However, the SEBI could take a lot of reformative stances regarding this issue. The first step would be to change its approach about circumstantial evidence. They often rely on trading proximity, familial connections and communication records to suspect if an entity has some UPSI. But, such indicators are often too speculative. We need to develop a graded matrix of evidences where they are categorized by probative strength.

SEBI can also integrate some digital and forensic regulations. Data from emails, encrypted messages and cloud activity (also data from brokers) can help with making a strong proof. Of course, such activities might violate a few privacy provisions, so judicial oversight might be necessary. Trading logs must be preserved. Moreover, protecting the anonymity of whistleblowers and developing cross border cooperation, can significantly increase the chances of obtaining direct evidences.

Regulation 4 of PIT 2015 should be amended to clarify that possession alone does not imply culpability, as set in the Balram Garg case. SEBI could also work on standardizing the reasoning in their orders. SEBI must publish detailed evidentiary reasoning documents and should mention about following things – how the UPSI was identified? How the connection and trading link was established? And why did they rely on circumstantial evidence? This will help in promoting regulatory transparency. Many court overturnings are due to inconsistent data. An uniform evidentiary framework could be helpful in that case. And lastly, collecting authentic and direct evidence should be their top most priority. Circumstantial evidence might help suspect an unfair practice, it is the direct evidence which will either make or break the case.

5. Conclusion – It is true that SEBI has made a lot of progress in regulating insider trading and protecting market integrity. Meanwhile, it is also true that reliance on circumstantial evidence and the gaps in digital evidence procedures, presents a big challenge for consistent and fair enforcement of regulations. As we have seen with SEC and FCA, integrating detection methods which are more technical and structured procedural safeguards can actually increase the outcomes of enforcement in the favour of SEBI. By adopting such methods, SEBI can have a greater chance in not getting its orders overturned on the ground of lacking concrete evidences. As a result, principles of justice and fairness are upheld and investors stay confident about the market.