

SHIELDING SEBI: ON SUPREME COURT'S RULING AND SEBI PROBE

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The [Supreme Court of India's ruling](#) on a batch of petitions, filed in the wake of a U.S.-based short seller's [allegations of malfeasance including stock price manipulation at the Adani group](#) of companies, has squarely tossed the ball back to the markets regulator's court. The Court has opted to subordinate petitioners' entreaties to protect larger public interest to its chariness to substitute "its own wisdom over the regulatory policies" of the Securities and Exchange Board of India. In its 46-page order, the Bench headed by Chief Justice of India D.Y. Chandrachud is emphatic in observing that "SEBI has prime facie conducted a comprehensive investigation" that "inspires confidence", and that "the facts of this case do not warrant a transfer of investigation from SEBI" given that "prima facie no deliberate inaction or inadequacy" was found in the regulator's conduct of its probe. Strikingly, the Bench has completely skirted the fundamental questions that the [Court-appointed Expert Committee in its May 2023 report](#) had opted to leave as a 'matter between SEBI and the Court' — the determination of possible violations pertaining to minimum public shareholding and related party transactions. The Bench has instead seized upon prayers urging the Court to direct SEBI to revoke its amendments to the Foreign Portfolio Investors Regulations and Listing Obligations and Disclosure Requirements — amendments that were at the heart of petitioners' submissions of regulatory failure — and roundly denied them on grounds that there was neither "any illegality", nor were the norms "capricious, arbitrary or violative of the Constitution".

The ruling has also done little to assuage investors' concerns about SEBI's approach to getting to the bottom of the allegations raised by [Hindenburg Research](#) in its [January 2023 report](#). Without elaboration on any of the regulator's findings, the Court has blandly observed that "SEBI has completed 22 out of the 24 investigations into the Adani group" and that completion of the remaining two "are pending due to inputs being awaited from foreign regulators". The Bench has directed SEBI to complete these "expeditiously". While the Court's reluctance to review the policy actions of a 'specialised regulator' is understandable, the decision to leave the crucial question of SEBI's perceived tardiness in investigating allegations of corporate malfeasance and market manipulation by a large conglomerate back to the remit of the very same watchdog hints at a degree of judicial abstinence that may only undermine the larger public good. The Court is surely aware of past instances where it has found SEBI wanting in alacrity of enforcement, a facet flagged by the experts' panel appointed in this case as well. After all, 'justice must not only be done, but it must also be seen to be done'.

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