

Procedural Fairness of Arbitration Process in Indian Capital Market

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Abstract: The extant research work attempts to study the procedural fairness of arbitration process in investor complaint redressal system in Indian Capital Market. Although there are lot of law and financial academic research studies available at Global perspective, there was lack of works done on arbitration process in Indian Capital market. Hence to fill this lacuna, the present paper throws a light on entire system of arbitration process both in National Stock Exchange (NSE) and Bombay Stock Exchange (BSE) under the guidelines of Securities Exchange Board of India (SEBI). In order to evaluate the effectiveness of arbitration process in Indian capital market 100 cases registered in NSE and BSE are selected on random basis for the financial year starting from 2011-12 to 2015-16. Furthermore the chi-square test is used to analyse the associations between various independent variables and three dependent (outcome) variables. In succession, we tested whether the independent variables were associated with (i) whether the case was settled, decided or appealed by arbitration; (ii) if decided, whether it is in favour of investors or not (iii) if the case was in favour of investors, whether the individual was awarded a “high” portion, “low” portion, “equal” portion of the claimed amount. Ultimately based on the result paper pleads for reform in entire system of investor complaint redressal process through maintaining the arbitration procedural fairness at each level of arbitration process.

Key Words: Arbitration process, BSE, Indian Capital Market, NSE, SEBI

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I. Introduction

In global financial markets, the variety of complex financial instruments and investment strategies offered to investors creates the potential for highly technical and sophisticated financial disputes [1]. Resolution of the securities financial disputes is one of the key issues to provide legal protection for investors to fight against wrongdoers in the capital market. According to the law and financial literatures, the investor complaints could be resolved either with private enforcement or public enforcement efforts. In private enforcement the investor complaints resolved bilaterally (without intervention of regulator and/or civil court). On the other hand in public enforcement effort, there is an intervention of regulators and Self Regulatory Organisations (SROs) of the capital market. Perhaps most disputes can't be resolved bilaterally instead must need institutional setups (third party intervention) so that the public can easily rely on independent unbiased individuals or panels to resolve their disputes.

Globally there are mainly two types of institutional dispute resolution practices namely, ombudsman model and arbitration models. These have over time shifted a large portion of the responsibility for private enforcement of securities law from the courts to the specialized entities that administer them [2]. Major financial centres like New York and London following distinct approaches to resolve financial disputes of investors. In US the dominant forum for dispute resolution between brokers and investors is binding arbitration which requires investors to arbitrate securities law claims rather than sue in federal courts. Whereas in United Kingdom, customers of regulated financial businesses often submit their claims to a financial ombudsman, an informal scheme that employs procedures quite unlike formal arbitration [1]. There are dense of academic work on the financial dispute resolution system, out of them the Prof. Alpert and Prof. Ajit studies argues that both Ombudsman and Arbitration have their own advantages and disadvantages, the arbitration process could still more effective when it would low-cost, less formal alternative to litigation, similar to that enjoyed under the Ombudsman scheme.

1. Statement of a Problem

In Indian capital market retail investors are considered to be weakest segment compare to domestic institutional investors, often fall and suffer under felonies of brokers and issuers of securities. They also have

lower profile and less financial educational background and habitually irrational behaviour compare to individual investors of other developed and fast growing economies. Even the education level of the investors effects on their awareness level on the grievance redressal system [3]. With this background of circumstances create number financial disputes in securities market and make regulators to set in motion to provide fair and effective securities dispute resolution mechanism. On the other part the investors may become victim of the loopholes of the dispute resolution system in Indian capital market.

2. Need for the Study

The effort of regulators in the process of securities dispute resolution has to evaluate persistently. The public, legislature etc have to rely on the procedural fairness of the system. Even though the SEBI has had some success prosecuting intermediaries, it has failed to convince the Securities Appellate Tribunal in its proceedings against corporate insiders and major market players [4]. The aggrieved investors expect the system of complaint handling and redress to be accessible, efficient and fair [2]. Considerably more number of financial and law literatures arguing the pros and cons of the financial disputes resolution models selected by the major financial centres of the world. Whereas the dispute resolution system in Indian capital market, is not studied at desired level. There is need for such research to analyse the procedural fairness of arbitration process towards investor protection in Indian capital market, with respect to time gap that the investor suffered; money they loss during resolution period etc. Suchlike the procedures that the regulators adopt in complaints resolution system, the ultimate consequence on the system is how much fairness they provide in services and gain faith of the public. The three attributes of a good dispute resolution system is accessibility, efficiency and fairness [2]. Hence the complete effectiveness of the complaint resolution mechanism can be reviewed through its accessibility, fairness and efficiency. However the present study attempts to evaluate the judicial fairness and efficiency of arbitration process towards protecting investor interest in Indian capital market.

II. Overview Of Arbitration

The third party intervention often involves conciliation, mediation and arbitration. Conciliation brings parties together and encourages them to find a mutually acceptable resolution to the dispute. In mediation, the neutral mediator is actively involved in negotiation between the parties and can propose a resolution, but cannot dictate a settlement of the dispute. Under arbitration, an independent individual or panel hears the facts of both sides of dispute and reaches a decision [2]. Presently more number of financial contracts in major financial centres included the pre-dispute arbitration clause, so that any kind of disputes arises while trading either party can easily resolve their disputes through arbitration instead of going court system. For instance, in US, many contracts between company and their employees/investors/customers have included a pre-dispute arbitration clause' stating that either party can arbitrate their claims or counter claims arises through any kind of disputes, instead of going court. An investor who has seeking monetary compensation or recovery will most likely be bound to pursue remedy under securities law prevailing in their financial centres.

In India SEBI monitor and control the entire securities dispute resolution system, with the assistance of Recognised Stock Exchanges (RSEs). The SEBI frequently amends all rules and procedures of investor complaints redressal, to streamline with the changing global standards. Nonetheless, RSEs are working as Self Regulatory Organisations (SROs) to provide all services relating to investor dispute resolution, including Arbitration services subject to their by-laws.

1. Arbitration Process in Indian Stock Market

In India, NSE and BSE are the leading providers of arbitration services for the securities industry in India. These Self Regulatory Organisations (SROs) have adopted detailed procedures for conducting the arbitrations they sponsor. The SEBI, as part of its oversight of the Stock Exchanges, reviews the procedural fairness of stock Exchange's By-laws with respect to arbitration process through its review and approval of amended arbitration rules and procedures. Indeed, SEBI also inspects the stock exchanges arbitration programmes on regular basis.

Arbitration provides a streamlined, expeditious, and final mechanism for resolving disputes through the use of experts in the matters at issue [5]. Even though investors, judiciary and legislatures, general public need to believe and have confidence on arbitration process and procedures. Hence each stage of arbitration should be operated fairly and transparently. Before analysing the procedural fairness of arbitration process it is necessary to know the by-laws of different aspects comes under arbitration.

The following are the different aspects of arbitration process:

1.1 Law of Limitation

The limitation period for filing an arbitration reference should be governed by the law of limitation, i.e., The Limitation Act, 1963. That means, all differences, disputes or claims which are not resolved through the process of IGRC, should be referred to arbitration within six months from the date of the transaction or from the date on which the investor to have given instruction/order to buy or sell a security or from the date on which the investor claims to have paid money or given a security, whichever is earlier. Considerably automatic appeals, extensive litigation by the government, underdeveloped alternative mechanisms of dispute resolution like arbitration, and the shortfall of judges all contribute to this undesirable state of delays in Indian courts [6].

1.2 Jurisdiction

All parties who bring their claims to the Arbitration reference should be subject to jurisdictional restrictions of the courts prescribed by the Bye-laws of the concerned exchanges for the purpose of effective implementation of the arbitration proceedings. These jurisdiction compliances will resolve the problem arises from handling the disputes beyond the scope of the stock exchanges. One more investors have to bear is time barrier of courts. Almost two-thirds of pending civil cases was more than a year old, and almost a third are over three years old. Since the same courts try both civil and criminal matters, and the latter get priority, securities disputes suffer even greater delays [6].

1.3 Arbitration Agreement

Firstly, claimant has to give a written statement, specifying the securities/money that he has going to claim or counterclaim as against trading member/companies along with the supporting documents within a specified time limit. After verifying the statement of the claimant the stock exchange or relevant authority decide to inform respondent-brokers/company representatives respectively. Notwithstanding, all parties of the disputes should sign an agreement, so that they are liable to act according to the rules and provisions of the relevant Bye-laws of Exchange. By signing the agreement either parties are deemed to agreed for administrative assistance of the Relevant Authority in order to facilitate the conduct of the arbitral proceedings and determine that issue/disputes.

1.4 Cost of Arbitration

The cost of arbitration for the purpose of Bye-laws may include fees and expenses of the arbitrators and witness, legal fees and expenses, any administration fees of the institution supervising the arbitration. The fees for arbitration and the charges for arbitration proceedings are collected by stock exchange in advance from parties, subject to Bye-laws. Moreover, the arbitration process is chargeable equally to either party with equal effect. If the investor refuses to pay fees of arbitration, the party (i.e broker/company) should need to pay both side charges. Further, if the investor file complaint against a trading member who declared as defaulter or expelled from the trading membership then investor shall not responsible to pay his part of fees to broker/company. Even though, the investor pays fees by himself to the exchange as the part of cost of arbitration proceedings, he is entitled to refund his deposit from stock exchange, only when the arbitral award has been passed in his favour.

1.5 Arbitrator Selection

The Stock Exchange that providing the Arbitration services to the investors, should maintain a panel of arbitrators subject to the rules and procedures of Arbitration and Conciliation Act of 1996. The number of arbitrators in the panel should be sufficient to the number of disputes registered in stock exchange, so that that each arbitrator could handle reasonable number of complaints simultaneously and all cases disposed/settled of within prescribed time. The Stock exchange has to set of fair and transparent criteria while including the names of person to the panel of arbitration. So that it foster the confidence of investor/public and they could easily rely on the arbitrators without ingredient of bias in complaints resolution system.

Indeed, the selection of Arbitrator based on Centralised Arbitrator Appointment Process (CAAP). Although, while selecting the arbitrators the stock exchange should take in to consider the Age and qualification in the area of Law, Finance, Accounts, Economics, Management, or Administration and experience in financial services and securities market. The stock exchange should also ensure that the process of appointment of arbitrator(s) is completed within 30 days from the date of receipt of application from the applicant. Although the arbitrator reference for a claim/counterclaim up to Rs. 2.5 million shall be dealt with a sole arbitrator while that above Rs. 2.5 million shall be dealt with by panel of three arbitrators.

1.6 Disclosure by Person to be Appointed as Arbitrators

Every person, who is possible to add his name to the panel, should disclose his background information to the Managing Director of Exchange. The following are the important content that the arbitrator obliged to declare or disclose to the concerned Exchange:

- i. a declaration that he has not been involved in any act of fraud, dishonesty or moral turpitude, or found guilty of any economic offence and act in a fair and unbiased, independent and objective manner;
- ii. nature of his association with the securities market;
- iii. names of his dependents associated with the securities market;
- iv. status of independence and impartiality with each parties involved in disputes - his independence of relationship in the form of any kind like business or family or personal;
- v. any direct or indirect financial or personal interest in the outcome of the arbitration.

Ultimately, the arbitrator should also obtain an undertaking that he should abide by the code of conduct prescribed in the Bye-laws of stock market.

1.7 Settlement Proceedings

The written statement being received from the investor/claimant, the arbitral tribunal may solve the dispute through mediation, conciliation or any other procedure at any time during the arbitral proceedings to fulfil final settlement. Whereas mediation would create a more efficient, inexpensive, and equitable method of resolving customer disputes.

Eventually, tribunal conduct hearing session if it feels necessary, where both the parties have similar privilege of being heard. Consequently, it is left to the arbitrator(s) whether to conduct investigation on provided witness/evidence, either it may be documents or person to be produce. During the proceedings, when parties settle the disputes, the arbitral tribunal shall terminate the proceedings and record the settlement in the form of an arbitral award. After settlement of disputes the arbitral tribunal need to provide its decision and reason for its decision in written form and same should be disclosed to relevant parties and disclosed in exchange's websites.

1.8 Award Announcement and Honouring

The arbitral tribunal shall make the arbitral award within four months from the date of bringing claims/counterclaims to the arbitration. Every award shall be made in writing and shall be signed by the arbitral tribunal. The award should also need to state the reasons upon which it is based, date and place of arbitration.

Notwithstanding, the arbitral tribunal shall consider the interest to be paid on the principal sum of award from the period prior to the institution of the arbitration proceedings. In case the arbitral award is in favour of investors, the stock exchange shall liable to debit the amount of the award from the security deposit or any other monies of the members (against whom an award has been passed) and keep it in a separate escrow account. The stock exchange shall implement the arbitral award, by making payment to the investor, along with the interest earned on the amount that has been set aside. Appellate award if not challenged u/s 34 of Arbitration and Conciliation Act, 1996 within 90 days, the blocked amount will be released to the investors.

Inevitably, the parties of the arbitration may have right to request the tribunal to correct any computational error or any arithmetical error, any clerical or typographical error occurred in award. If tribunal finds the above request to be justified, it shall make the correction. Finally, the exchange based on the arbitral tribunal award announcements settlement; follow the procedure with respect to honouring of the award.

1.9 Penalty or Suspension of Trading

After determination of dispute and announcement of award through arbitration process, despite investor agree with the decision of arbitration, the respondent-either company or trading member should obey the order and fulfil the claims of the investors. Suppose company fails or refuses to submit or abide or comply with any award in arbitration, should render itself for liable for suspension of trading in its securities. With means to the same if the trading member fails to comply with award in arbitration, should be declared as defaulter or expelled by relevant authority and the investor in whose favour the arbitration award has been given shall be entitled to institute legal proceedings to enforce the award under the Civil Procedures Code in the same manner as it is a decree of the court.

1.10 Appellate Arbitration

The aggrieved investor, who is dissatisfied with an arbitral award as per u/s 34 of Arbitration and Conciliation Act, 1996 within 90 days, may appeal/challenge against such award to the appellate competent court of jurisdiction within one month from the date of arbitral award. Application will be made u/s 33 of arbitration and Conciliation Act, 1996 for Correction, interpretation or additional award within 30 days. The appellate panel shall consist of three arbitrators who shall be different from the ones who passed the arbitral award appealed against. The stock exchange shall ensure the process of appointment of appellate panel of arbitrators is complete within 30 days from the date of receipt of application for the appellate arbitration. The appeal should be disposed of within three months from the date of appointment of appellate panel of such appeal by way of issue of an appellate arbitral award. A party aggrieved by the appellate arbitral award may file an application to the Court of competent jurisdiction in accordance with Section 34 of the Arbitration and Conciliation Act, 1996. A party filing an appeal before the appellate panel shall pay a fee not exceeding Rs. 30,000, as may be prescribed by the stock exchange, in addition to stock exchange dues like stamp duty, service tax etc.

The stock exchange shall implement the appellate arbitral award, by making payment to the client, along with interest earned on the amount that has been set aside. If award was not challenged u/s 34 of Arbitration and Conciliation Act, 1996 within specified time, the blocked amount will be released to the investors.

1.11 Record and Disclosure

The stock exchange shall preserve documents like, the arbitral and appellate arbitral award with acknowledgments, confirming receipt of award by the disputing parties, and record of arbitration for five years from the date of arbitral award, appellate arbitral award or Order of the court, as the case may be. The SE should disclose on its website, details of disposal of arbitration proceedings as per prescribed format (Format A) add details of arbitrator-wise disposal of arbitration proceedings as per prescribed format (Format B).

III. Objectives Of The Study

1. To know the arbitration procedures following by the Indian stock exchanges-NSE and BSE under the guidelines of SEBI.
2. To evaluate the procedural fairness in arbitration procedures through analysing and comparing the factors affecting on the arbitration result.
- 3.

IV. Hypothesis

On the basis of our research work, knowledge of the arbitration process, and available information in cases filed by the investors in NSE and BSE, we hypothesized that as many as 11 variables may be associated with the outcomes/result variables.

V. Research Methodology

1. Study Design

The extant research work done based on the case analysis, under which 100 cases of arbitration filed in NSE and BSE by investors were taken. Table: I show the 11 variables that were tested with the each of the 3 separate outcome variables. Our analyses of these three outcomes proceeded as follows.

2. Study Settings

This paper was considered the study period from 2011-12 to 2015-16 financial years.

3. Sample Design

By using random sampling method the 100 cases from five years starting from 2011-12 to 2015-16, by considering 11 cases per year is selected for the analysis purpose.

4. Analytical Tools

The Chi-square test is used to test of independence between ten independent variables with three dependent variables.

VI. Data Analysis And Interpretation

We used chi-square analysis, to test associations between various independent variables and three dependent (outcome) variables. In succession, we tested whether the independent variables were associated with (i) whether the case was settled, decided or appealed by arbitration; (ii) if decided, whether it is in favour of investors or not (iii) if the case was in favour of investors, whether the individual was awarded a “high” portion, “low” portion, “equal” portion of the claimed amount. Our study consisted of 100 cases for the decided/settled analysis, for award in favour analysis, and for award-high/award-low analysis.

Given the number of cases that were available for analysis, it was not practical to test all 11 variables simultaneously. Therefore, we applied bivariate techniques to examine the relationship of each independent variable with each dependent variable. This allowed us to establish, statistically significant association with the different outcomes and grouping of variables which were associated each other.

Table-1 Association between Factors and Outcome Variables

Factors	Result Variables		
	Decision	Award Amount	Award in Favour of
Time Taken for Arbitration Award	Statistically Significant	Not Significant	Not Significant
Type of Complaint	Statistically Significant	Not Significant	Statistically Significant
Size of Claim	Not Significant	Not Significant	Not Significant
Documents produced by Investors	Statistically Significant	Statistically Significant	Statistically Significant
Arbitrator Selection Preference	Constant	Constant	Constant
Cost of Order	Statistically Significant	Statistically Significant	Statistically Significant
Counter Claim	Not Significant	Not Significant	Not Significant
Type of Product	Statistically Significant	Not Significant	Not Significant
Attorney Representation	Not Significant	Not Significant	Not Significant
Class of Arbitration	Statistically Significant	Statistically Significant	Statistically Significant
IGRC order	Statistically Significant	Statistically Significant	Statistically Significant

Source: Established by the author

Above table depicts the result of bivariate analysis using Chi-square and shows the association between various factors with the dependent-result variables.

Table-2 Grouping of Variables

Factors	Result Variables		
	Decision 1. Decided 2. Settled 3. Appealed	Award Amount 1. No award 2. <claim amount 3. = claim amount 4. > claim amount	Award in favour of 1. Investors 2. Brokers
Time Taken for Arbitration Award	1. 1-3 months 2. 4-6 months 3. >6 months	Not Applicable	Not Applicable
Type of Complaint	1. Unauthorised trade 2. Excess Brokerage charges 3. other	Not Applicable	1.Unauthorised trade 2. Excess Brokerage charges 3. other
Size of Claim	Not Applicable	Not Applicable	Not Applicable
Documents produced by Investors	1. Adequate 2. Inadequate	1. Adequate 2. Inadequate	1. Adequate 2. Inadequate
Arbitrator Selection Preference	Constant	Constant	Constant
Cost of Order	1. Bear by investor 2. Bear by Stock Exchange 3. Bear by brokers	1. Bear by investor 2. Bear by Stock Exchange 3. Bear by brokers	1. Bear by investor 2. Bear by Stock Exchange 3. Bear by brokers
Counter Claim	Not Applicable	Not Applicable	Not Applicable
Type of Product	1. Shares 2. Future and Option	Not Applicable	Not Applicable
Attorney Representation	Not Applicable	Not Applicable	Not Applicable
Class of Arbitration	1. Investor Vs. Brokers 2. Brokers Vs. Investors	1. Investor Vs. Brokers 2. Brokers Vs. Investors	1. Investor Vs. Brokers 2. Brokers Vs. Investors
IGRC decision	1. Quashed by arbitrator 2. Supported by the arbitrator	1. Quashed by arbitrator 2. Supported by the arbitrator	1. Quashed by arbitrator 2. Supported by the arbitrator

Source: Established by the author

The above table indicate the grouping of variables based on their association with the dependent variables. The detailed discussion about the association between 11 independent variables and 3 dependent variables are given below:

1. There is a statistical association between arbitration time and arbitration decision. This means the time taken for arbitration has significant impact on whether the investor claims decided, settled or appealed.
2. Types of complaints like unauthorised trade/excess brokerage charges/other kind of complaints on brokers are significantly associated with the outcome variables-decision and award in favour of- investors or brokers. Here most of the investor cases registered against brokers are unauthorised trade and are awarded (decided) against investors rather than award in favour of investor.
3. Here statistically proved that the size of claim not affects on any of the result variables. Hence the claim size were not significantly affected on any of the result variables
4. Documents produced by the investors are significantly affected on all the result variables. Because most of the cases are closed and no claims awarded to the investors as there are no adequate witness/documents produced by the investors against unauthorised trading.
5. The relationship between arbitration selection preferences could not able to calculate statistically, as it have constant inputs, because in all the cases the arbitrator were selected on the preference of the stock exchange, but neither on the preference of the investors or brokers. The bye-laws of the stock exchanges adage that the investors have complete right to select and know about the arbitrators before starting arbitration procedures, but there is no such practice in real sense.
6. The cost of the arbitration borne by either parties (i.e., investors or brokers) have well affected on the result variables. In bye-laws of the stock exchanges it is said that against whom the award was announced they have to borne the entire arbitration cost. In most of the analysed cases, the cost borne by the investors as they could not be able to prove themselves endure from unauthorised trade, hence in all most all the cases the investors are borne the entire cost of the arbitration.
7. Counter claim made by the brokers against investors are not affecting any of the result variables. As the counterclaims made by the investors; very few of them are decided but all most all were conciliated.
8. Type of product also have significant association between decision of cases whether decided, settled or appealed as the option segment involved more complex or riskier transactions than capital market segment, and investors were nearly always have a chance of being awarded what amount they claim either less than or equal, even in rare cases of higher than the claimed amount as against brokers.
9. Attorney Representation not associated with the any of the result variables, as in most of the cases except 3-4 cases there are no attorney representation, hence it was not affecting the result variables.
10. Class of arbitration have significant association with the result variable, because the investor vs. brokers or Brokers Vs. investor claims merely impacted on whether the case decided or settled or appealed, even on amount of award and on whom favour the case was decided.
11. IGRC decision also affect on the result variables, as most of the cases, the arbitrator quashed the order and even reversed the decisions of the IGRC.

VII. Recommendation

According to the Bye-laws of the stock exchanges the every arbitrators are selected from the arbitrator's pool maintained by the SEs. The fairness of the arbitration process merely depends on the facts that provided/disclosed by the arbitrators. Noticeably in major economic centres the investors have rights to know about the complete background of the arbitrators moreover they can select their own choice of arbitrator [7], whereas in Indian capital market even though the laws are privileged the investors in selecting the arbitrators, may be because of their gullibility about this, they could not take the advantages of such provisions. Hence in analysed cases all most all arbitration handled by the arbitrators selected by the stock exchange, but neither by the investors nor by the brokers. Hence we would like to recommend that the SEBI should maintain the formal standards regarding arbitrator selection and their detail disclosures- starting from the selection till his reason for his decision etc. so that the respected stock exchanges could maintain consistency in time taken while passing arbitration order.

In most of the analysed cases the investors are not able to recover his loss claims even they suffer from unauthorised trade from broker-dealers, because they are unaware about kind of loss they suffered on one side, and they were not maintained proper records. As the trading members professionally well known about stock market transactions and could able to maintain each and every transactions of stock market, and easily could possible to produce required evidence as and when arbitrator ask, but common individual investor could not able to produce as they are literally known what are all the documents they have to produce. Hence it is the duty of the regulators and self regulatory organisations like stock exchanges to educate investors about the differences in loss suffered from real market risk or on the other hand loss suffered from the intervention of the trading member against which investor could claim within the purview of law, it may be helpful for the small investors

to avoid in wasting money and time on claiming of amount of loss occurred with the chance of market fluctuation. On the other hand he must educate regarding the maintenance of all transaction related documents without fail.

The cost of arbitration also one of the thing endured by the small individual investor while arbitration process, even though stock exchanges provide monetary relief during the course of arbitration, but if the award is against the investor, he need to borne entire arbitration cost. It is rightly said in the GOA report-1992 that, "risk increasing significantly the costs of securities arbitration and reducing the pool of qualified arbitrators without materially improving the general quality of the arbitrator pool or increasing assurances of the independence or capability of individual arbitrators." Hence the SEBI should further need to relief and arbitration cost especially for small retail investors.

Furthermore we would like to suggest in maintaining consistency in arbitration duration for increasing the standard of arbitration process. In the most of the analysed cases, the arbitrator quashed the IGRC decision, in which the award was in favour of investors. This might adversely affect on the investor losing his faith on entire system of dispute resolution. Hence we would suggest the SEBI to evaluate or maintain separate committee to look after the entire fairness of the arbitration process.

VIII. Conclusion

The extant research examines the effectiveness of arbitration process by studying the procedural fairness in handling cases registered by the investors in NSE and BSE. The study intends to know whether arbitration really considered the investor protection as an important agenda of securities dispute resolution system or else just like elephant in a dark room. Several research works are conducted in this area. These works vary widely in terms of their objectives and scope. However, most of the studies have focused on the complaint received and redressed and action taken by SEBI on brokers and companies for not handling investor complaints. The effectiveness of the complaint redressal process is not studied to the desired extent as evidenced by the review of literature. Hence we consider this work is relevant and unique in nature for the following reasons. Firstly, the study throws a light on conceptual analysis of by-laws with respect of arbitration process in Indian capital market. Secondly, it evaluates the effectiveness of procedural fairness of arbitration process by studying cases registered under stock exchanges. Substantially most of the aspects in arbitration procedure is statistically significant with each other. The time taken for arbitration, cost of arbitration, documents produced by investors etc significantly affect the ultimate result of the arbitration. Hence due diligence is needed to maintain fairness in arbitration process in Indian securities dispute resolution system. Indian capital market adopted public enforcement efforts and demands maintenance of fairness in securities disputes resolution. Henceforth the public can easily rely on independent unbiased individuals or panels to resolve their disputes.

Ultimately, the paper pleads for reform in entire system of investor complaint redressal process through maintaining the arbitration procedural fairness at each stage of arbitration process. This way it help to streamline Indian capital market legal system to the international standards beside protecting and building the confidence of investor in the current system of securities law.

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