Appointment and disappointment

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The suspense is over. Ajay Tyagi's term of office as Sebi chairman has been extended by 18 months.

Nothing of what has been stated in the succeeding paragraphs is a comment on his suitability or track record. The present extension order is only a peg on which to hang some thoughts that should ideally inform the selection process for positions of this kind.

There is an element of poetic justice in the extension of his term. When he was selected for appointment as Sebi chairman, it was decided to give him a five-year term. However, when his appointment order was issued, the term of office was indicated as three years. Early this year, the term was extended by six months. The present extension gives him a total tenure of five years, in three different but continuing spells in office.

It would be an understatement to say that the manner in which this entire process was handled left a lot to be desired. To begin with, there is as yet no clarity on why he was given an initial term of three years, when, by all accounts, it had been decided to give him a five-year term. His predecessor led Sebi for six years, albeit with three different periods of appointment running consecutively. In that context, a five-year term would have been most appropriate.

When Tyagi's tenure was extended by six months in February this year, persons who claimed to be informed opined that the selection process for his successor was underway, and it was unlikely to be completed before his three-year term came to an end. This begs the question why the selection process could not have been initiated a few months before the end of his term, so that his successor could be identified and could move into office on the day Tyagi's term expired.

The latest extension is attributed to the need for continuity and avoidance of disruption in the securities market during Covid times. This explanation does not wash since even the Union health secretary was allowed to demit office in the thick of the Covid pandemic, after extension of service by three months. Further, the fear that the securities market would face severe disruption in the event the Sebi chairman was changed is to make the fundamental mistake of believing that a regulatory organisation begins and ends with the chairman. While a chairman or chief executive significantly influences the functioning of an organisation, it cannot be concluded that others are mere bystanders, without a clue as to what needs to be done, and in what manner.

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There is an even bigger question that needs to be addressed. In any organisation, where the term of the chief executive is about to end and he/she has a few years left to reach the statutorily prescribed age for superannuation, the first question that needs to be asked is whether the incumbent has functioned effectively during his/her term of office. It is only when the answer to that question is in the negative that the process of identifying a successor should be initiated.

It is an anomalous situation when an incumbent, who has spent three years in office, is to be evaluated alongside several others from outside the organisation. In Sebi, in early 2008, the incumbent chairman was invited to participate in an interview process in which some other aspirants to office were also involved. It is a matter of record that the then incumbent chairman refused to participate in the process stating that his three-year track record would be a much better indicator of his performance or non-performance than a conversation lasting 15 minutes with the interview panel. Interestingly, the interview panel had some members who were there in an ex-officio capacity and would not have had a nodding acquaintance with the securities market. His assertion that Sebi's reputation would be adversely impacted if its serving chairman presented himself as a candidate for an interview process for the same position found endorsement among several knowledgeable observers of the scene. That he bowed out of office after stating that he was neither an applicant nor a supplicant, or for that matter neither a candidate nor a job seeker, ensured that SEBI's credibility as an organisation withstood the test of a transition process. It is relevant to add that the participation in a similar selection process by a subsequent holder of that office did nothing to enhance Sebi's credibility.

As in the case of a few national-level organisations, the top position in Sebi should be filled through a search-cum-selection process that can stand up to the strictest of scrutiny. Ideally, the finance ministry should have nothing to do with the actual process, and should confine itself to facilitating and assisting the process. A three-member committee of experienced, knowledgeable and widely respected individuals should be tasked not just to interview candidates whose names are suggested to them, or, what is worse, are applicants for the posts, but also to identify, through a search process, good candidates who would have to be persuaded to accept the position. Put differently, these must be persons who during their incumbency will add lustre to the office rather than benefit from occupying the chair of the chief executive. This is the first step towards ensuring the functional autonomy of the organisation.

A flawed process will not always fortuitously deliver a good outcome.

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