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SHAREHOLDER DEMOCRACY AND CORPORATE GOVERNANCE**Abstract**

Due to the recent pandemic many firms are facing a state of emergencies to save their company. This emergency calls for a corporate governance to come in action. It seen that Indian needs in India there is prominent need to share powers with the share holders as in other countries more powers are shared by the shareholders of the company. With the recent regulatory advancement in India would suggest more power for shareholder activism and their participation in the postal poll or e-voting. The purpose behind writing this article is to show that in the country like India, shareholder democracy is not practices at it's best and why it becomes essential to have shareholder democracy. Through the Companies Act, 2013 there are some advancements in the rights of shareholders in the company. Still much activism is necessary with reference to the shareholders in involvement of the company. Everything relating to remuneration to the shareholders, their voting rights etc has been talked about in this article.

Introduction

In today's world corporate sector can be constituted as the back bone of the economy. If we talk particularly about the corporate governance then it is the structure and the associations which govern corporate direction and performance¹. The guidelines that a firm sets for itself is in line with to make profits, achieve the goals and to benefit the shareholders that invested their money in the firm. A good corporate governance provides set of connection between company's board members, shareholder, management etc. A good corporate governance must be transparent to its corporate structure and corporate accountability towards stakeholders. While we discuss about the shareholder democracy, we first need to understand who are the shareholders, shareholders are the owners of the share of the respective company. To become a shareholder, a person is needed to buy at least one share of that company.

In the view of corporate governance, shareholder democracy becomes a very important aspect of it. Shareholder democracy is the part of corporate democracy that we have discussed. In broader sense it mean that company is under the control of the shareholders. A company must have at least one shareholder and there is no maximum limit for that. They act as an trustees and agents in fiduciary capacity for the company. As a theory stakeholder shows that a company including the executive boards is accountable to the shareholders as well as all the people in the firm that has power to take actions and decisions in the firm.

Need for corporate governance.

There are many reasons to why the corporate governance is much needed. Following are the few points which tells us that-

- **Large number of shareholders-** In today's time there many big firms with large number of unorganised shareholders. Some shareholders shows no attention to the corporate affairs which means that the concept of shareholders democracy remain confined only to the to the law. For that very purpose corporate governance is required for the practical implementation of it.

¹ Available at: <https://www.civilserviceindia.com/subject/Management/notes/corporate-governance.html> [Accessed on 21/7/21]

- **Corporate Scandals** – Corporate frauds or scandals are seen a lot of times if proper corporate governance is not followed. A famous scandal of Harshad Mehta is the one the best example of it as was directly related to corporate shareholdings. Corporate governance keeps a check on these frauds and scandals as the board of directors will be accountable to all the employees, shareholders etc.
- **Expectation of society** – In this changing time a society expectation has increased from a firm. Today's society wants a better product in terms of price, quality etc. Corporate governance ensures proper code of conduct that needs to be followed by the corporate management.
- **Dynamic ownership structure in a private sector** – Corporate ownership is changing in present day times as the mutual funds and institutional investors are becoming largest shareholder. They are becoming a challenge for the corporate management. Here corporate governance help in relieving some stress from management as everything has to be done in accordance with the established code of corporate governance.

There is landmark case which showed importance of shareholder democracy in corporate governance. The name of the case is *Cyrus Investments (P) Ltd. v. Tata Sons Ltd*² in this case a petition was filed under section 241 of the companies act, 2013 in front of National Company Law Tribunal in which there was mismanagement and oppression by the respondent which included actions like loss making nano projects, allowing Mr Ratan Tata and Mr Noshir Soonawala to interfere in the affairs of the company while not present on the Board of Directors etc. Which explains how much important corporate governance is as it keeps check on the management and provides certain rules and regulations too.

Share holder democracy under The Companies Act, 2013

As discussed earlier, share holder democracy comes under corporate governance. Initially it starts by allocating the powers of decision making to the shareholder and then finding out if there more can be incorporated for more efficiency through increasing number of issues over which member has their last words.

² *Cyrus Investments (P) Ltd. v. Tata Sons Ltd.*, 2018 SCC OnLine NCLT 546.

In a changing time, government had been regulating the corporations. Corporate governance tries to bring balance in the powers of management and shareholders. But these aspirations are generally found democratic. It is through corporate governance only that transparency of the company is well maintained otherwise the company may indulge in many bad practices like black marketing, maintain false accounts which kept hidden from the shareholders. For this very purpose only shareholders take part in the corporate governance so that shareholders can get full disclosure of the company and information can flow smoothly to them. But it never means that shareholders takes place of management in the company as it would lead to chaos as it will dissolve the role of directors. In case corporate governance fails then the directors are responsible to the shareholders of the company thereby it becomes very necessary to have system of check and balances in the company so that shareholders powers are not misused and neither they remain in the dark with ongoing activities in the companies.

There should be an active participation of the shareholders in the company they should encourage corporate governance by giving their precious vote and thereby electing the directors. They should also express their view in the company and should be a part of major corporate decisions as they are very important part of a company.

Practical Instances of Shareholders Democracy

In this dynamic times, currently India is witnessing some major increase in shareholder activism. We can see that in the company like Tata Motors were the shareholder rejected the increase of remuneration of particular key executives of the company in July, 2014 but in January 2015, voting was done again and the share holders voted for increase in the remuneration³. If we have to take more recent example then we have the company named as Raymond Ltd. Shareholders of Raymond Ltd. rejected the sale of JK house to the promoters of Raymond Ltd. at a price which was certainly below the market price.

One more recent example comes from Fortis Healthcare. Where the shares of Fortis Healthcare came down 13.3% as the minority shareholders put an end to the sale of its hospital business to Manipal Hospitals. Fortis Healthcare board accepted and approved the demerge of its hospital business to Manipal along with 50% in diagnostics chain SRL. Shareholders became

³ Available at: <https://www.livemint.com/Companies/r2bfqMfLmzHLPQzOsJXQwJ/Tata-Motors-shareholders-reject-remuneration-proposals-for-t.html> [Accessed on 23/7/21]

unhappy with the decision as the value of their shares declined. The value of the share came to Rs 95 which were Rs 125-150 per as per consensus analysts.

Conclusion

All the above information related to corporate governance and shareholder democracy tell us that a company should must have a corporate governance as the shareholders of that company would definitely feel confident if the corporate governance prevails in the company. The corporate culture in India provides with well defined and transparent audit and finance system etc. It is through The Companies Act, 2013 that a balance is tried to be maintained between the regulatory and legislative reforms of the company for the purpose of its growth. Corporate governance ensures the safety of management as well as the interests of the shareholder.

Now speaking about shareholder democracy, a company is regulated by its boards in which shareholders are voters of that company who make their decision through various channels of law. To practice the concept of democracy in the company, a shareholder needs to contribute to the company by keeping his/ her thoughts in the company and definitely adopting voting.

In my view though SEBI has made changes in the corporate governance for good but I believe that in corporate governance SEBI's main focus is on the board level changes whereas as side by side it should also give due importance to the shareholder democracy for the betterment of the company.

Corporate India has bright future in coming up days, a shareholder and the management should equally feel safe and should feel that their rights and interest are being protected in the society, SEBI's changes in this sector shows that it is moving towards the better and corporate governance and shareholder democracy and now it's upon people how they practice their rights and duties for their interests.