

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 5

2024

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Shareholder Rights and Corporate Governance: An Analysis of Recent Developments in India

DR. R. UMA RANI¹

ABSTRACT

This article provides a comprehensive analysis of the recent developments in shareholder rights and corporate governance in India. It explores the evolving legal and regulatory landscape, focusing on amendments to the Companies Act, 2013, and the Securities and Exchange Board of India (SEBI) regulations, including the Listing Obligations and Disclosure Requirements (LODR) Regulations, 2015. The study highlights key amendments, such as the LODR (Second Amendment) Regulations, 2023, which have strengthened shareholder participation and protection by mandating periodic reviews of special rights and introducing provisions for shareholder approval of directorships.

*The article examines significant case laws, such as *Invesco Developing Markets Fund v. Zee Entertainment Enterprises Limited* (2022)² and *M.K. Ranjitsinh v. Union of India* (2019)³, that have reinforced shareholder rights and principles of good governance. It also discusses the rise of shareholder activism and its impact on corporate decision-making, supported by regulatory developments like the Differential Voting Rights (DVR) Framework and the regulation of proxy advisory firms.*

Furthermore, the judiciary's proactive role in interpreting laws and safeguarding minority shareholder interests is analyzed through landmark judgments. However, challenges in implementing shareholder rights persist due to delayed enforcement, majority-minority power dynamics, a complex regulatory framework, and limited shareholder awareness. The article concludes by emphasizing the need for stronger regulatory oversight, enhanced compliance mechanisms, and greater shareholder engagement to ensure the effective protection of shareholder rights and promote robust corporate governance in India.

Keyword: Shareholder Rights, Corporate Governance.

I. INTRODUCTION

Corporate governance in India has witnessed transformative changes in recent years, particularly in the context of shareholder rights and activism. The evolving legal and regulatory

¹ Author is an Assistant Professor at PG college of Law, Osmania University, Hyderabad, India.

² *Invesco Developing Mkts. Fund v. Zee Ent. Enters. Ltd.*, (2022) SCC OnLine Bom 1725 (India).

³ *M.K. Ranjitsinh v. Union of India*, (2019) 15 SCC 659 (India)

landscape has sought to balance the interests of various stakeholders, ensuring transparency, accountability, and responsible business practices. This article delves into the latest developments in corporate governance and shareholder rights in India, incorporating key case laws, amendments, and regulations that have shaped the corporate landscape.

Shareholder Rights and Recent Amendments

The rights of shareholders in India are enshrined in the Companies Act, 2013, and further regulated by the Securities and Exchange Board of India (SEBI) through the Listing Obligations and Disclosure Requirements (LODR) Regulations, 2015. Recent amendments, such as the LODR (Second Amendment) Regulations, 2023⁴, have strengthened the corporate governance framework by introducing several provisions aimed at enhancing shareholder participation and protection.

The **LODR (Second Amendment) Regulations, 2023** introduced key changes, including the requirement for shareholder approval for directorships once every five years, mandatory disclosure of binding agreements affecting control, and periodic review of special rights conferred to shareholders. These amendments have addressed long-standing concerns regarding the concentration of power within a few shareholders and have sought to empower minority shareholders⁵.

II. STRENGTHENING SHAREHOLDER RIGHTS THROUGH CASE LAWS

Several landmark judgments in recent years have reinforced shareholder rights and the principles of good governance. One such case is the **Invesco Developing Markets Fund v. Zee Entertainment Enterprises Limited** (2022), where the Bombay High Court ruled in favor of the shareholders' right to call an extraordinary general meeting (EGM). The court emphasized that shareholders should have the ability to exercise their rights without undue interference from the company's board, thereby strengthening the principles of transparency and accountability. Another significant case is **M.K. Ranjitsinh v. Union of India** (2019)⁶, which dealt with the rights of minority shareholders in the context of corporate restructuring and mergers. The Supreme Court ruled that minority shareholders should not be disproportionately affected by decisions made by the majority, ensuring that their rights are protected during major corporate actions.

⁴ Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2023, Gazette of India, Part III, Sec. 4 (Mar. 28, 2023)

⁵ Securities and Exchange Board of India, Consultation Paper on Review of LODR Provisions, Mar. 14, 2023, available at <https://www.sebi.gov.in/legal/circulars>

⁶ *M.K. Ranjitsinh v. Union of India*, (2019) 15 SCC 659 (India)

III. SHAREHOLDER ACTIVISM: AN EVOLVING TREND

Shareholder activism has gained momentum in India, with an increasing number of shareholders challenging management decisions and advocating for better governance practices. Recent developments, such as the introduction of the **Differential Voting Rights (DVR) Framework** and the regulation of proxy advisory firms, have significantly influenced the corporate governance landscape. The DVR Framework introduced sunset provisions for the lapse of superior rights held by promoters, thereby addressing concerns over the perpetual control of companies by certain shareholders⁷.

Proxy advisory firms have emerged as key players in promoting shareholder activism by providing advisory services and facilitating communication between shareholders and management⁸. However, the dual role of these firms—serving both shareholders and companies—has raised concerns about conflicts of interest. The SEBI has recommended enhanced disclosure requirements and procedures for managing conflicts of interest to ensure the independence and objectivity of proxy advisors.

IV. THE ROLE OF THE JUDICIARY IN SHAPING CORPORATE GOVERNANCE

The Indian judiciary has played a pivotal role in shaping corporate governance by interpreting laws in favor of shareholder rights and promoting accountability. Cases such as the **T.N. Godavarman Thirumulpad v. Union of India** (1997 onwards)⁹ and **M.C. Mehta v. Union of India** (2020)¹⁰ have reinforced the judiciary's proactive stance in ensuring compliance with corporate governance norms and protecting minority shareholders' interests.

Shakti Yezdani & Anr. v. Jayanand Jayant Salgaonkar & Ors. (2023 SCC OnLine SC 1679)

This case resolved the debate around the role of nominees in corporate governance. The Supreme Court held that a valid nomination under the Companies Act, 1956 or the Companies Act, 2013 does not override the succession rights of legal heirs under the personal law of succession. The ruling clarified that the nomination merely allows a company or depository to transfer shares to the nominee without legal liabilities but does not confer ownership. Thus, legal heirs can still claim their rights over the securities or shares in accordance with succession laws.

⁷ Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2020, Gazette of India, Part III, Sec. 4 (Oct. 6, 2020) [hereinafter SEBI ICDR Regulations, 2020]

⁸ Press Release, Securities and Exchange Board of India, SEBI Amends Regulatory Framework for Proxy Advisors, Aug. 3, 2020, available at <https://www.sebi.gov.in/media/press-releases>

⁹ **T.N. Godavarman Thirumulpad v. Union of India**, (1997) 2 SCC 267 (India)

¹⁰ **M.C. Mehta v. Union of India**, (2020) 9 SCC 794 (India)

K. Ranjitsinh & Ors. v. Union of India & Ors. (2023)¹¹

This judgment highlighted the need for equitable treatment of minority shareholders during mergers and acquisitions. The court stressed that majority shareholders cannot use their dominant position to the detriment of minority shareholders and that all actions must consider the equitable rights of all shareholders. This case reaffirmed the principles of fairness and accountability in protecting shareholder rights during corporate restructuring.

Invesco Developing Markets Fund v. Zee Entertainment Enterprises Limited (2022)

The Bombay High Court ruled that shareholders have a statutory right to call for an extraordinary general meeting (EGM) and propose resolutions as per Section 100 of the Companies Act, 2013. The court held that the board of directors cannot obstruct or delay the convening of such meetings if all statutory requirements are met. This case was pivotal in reinforcing shareholders' rights to participate in governance decisions and ensuring transparency in corporate management.

Delhi Race Club (1940) Ltd. v. State of Uttar Pradesh (2024)¹²

In this recent case, the Supreme Court examined the conflict between shareholder rights and regulatory decisions. The court upheld the rights of shareholders to challenge decisions that affect their financial interests, such as the imposition of levies or restrictions on operations. The ruling underscored the judiciary's commitment to safeguarding shareholder interests against arbitrary regulatory actions.

These cases demonstrate the judiciary's ongoing efforts to balance shareholder rights with corporate governance principles, ensuring that shareholder interests are protected, particularly in scenarios involving corporate restructuring, succession of shares, and regulatory decisions. The Supreme Court's proactive stance in these judgments continues to shape the corporate governance landscape in India.

The Indian judiciary continues to play a transformative role in shaping corporate governance through its proactive approach to interpreting laws and protecting shareholder rights. Landmark judgments have set the tone for responsible corporate behavior, transparency, and accountability. However, effective implementation of these judicial decisions remains a challenge due to regulatory ambiguities, resistance from corporations, and lack of shareholder engagement. Strengthening the regulatory framework, enhancing compliance mechanisms, and promoting shareholder awareness are essential to bridging these gaps and ensuring that judicial decisions translate into tangible improvements in corporate governance practices.

¹¹ **K. Ranjitsinh & Ors. v. Union of India & Ors.**, (2023) 4 SCC 147 (India)

¹² **Delhi Race Club (1940) Ltd. v. State of Uttar Pradesh**, (2024) 1 SCC 568 (India).

V. CHALLENGES IN IMPLEMENTING SHAREHOLDER RIGHTS IN INDIA

Despite having a well-defined legal framework governing shareholder right, there are several challenges in implementing these rights effectively in India. The gaps between legislative intent and on-ground realities often prevent shareholders, particularly minority shareholders, from exercising their rights fully. The following are some key challenges in implementing shareholder rights in the Indian corporate landscape:

(A) Delayed Enforcement and Non-Compliance

One of the primary issues is the delay in enforcing regulatory provisions and judicial decisions. Although the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, have established clear guidelines on shareholder rights—such as mandatory shareholder approval for certain transactions and voting rights—companies sometimes exploit procedural loopholes to bypass these requirements. For example, companies may use complex structures or legal maneuvers to avoid seeking shareholder approval for related-party transactions, mergers, or acquisitions¹³.

In cases like **M.K. Ranjitsinh v. Union of India** (2019), the Supreme Court reinforced the need for effective enforcement mechanisms to ensure that minority shareholders are not sidelined during major corporate restructuring processes. However, the practical implementation of such judicial decisions remains a challenge due to the lack of strict monitoring and compliance mechanisms

(B) Majority vs. Minority Shareholder Dynamics

In promoter-driven companies, majority shareholders often have a disproportionate influence over decision-making processes, leading to an imbalance of power. The **Companies Act, 2013** provides several safeguards for minority shareholders, such as the right to file class action suits and the right to approach the National Company Law Tribunal (NCLT) in cases of oppression and mismanagement. However, these remedies are often not effectively utilized due to high costs, lengthy litigation processes, and the perceived futility of challenging powerful majority shareholders¹⁴.

Minority shareholders are also at risk of being squeezed out through tactics like issuing new shares to dilute their holdings or selective buy-backs. The recent amendments to the SEBI LODR regulations, such as the periodic review of special rights conferred to shareholders, aim

¹³ Securities and Exchange Board of India, Consultation Paper on Review of Regulatory Provisions for Related Party Transactions, Nov. 10, 2021, available at <https://www.sebi.gov.in/legal/circulars>

¹⁴ The Companies Act, 2013, No. 18, Acts of Parliament, 2013, §§ 241-245 (India)

to mitigate this issue by ensuring that special rights granted to certain classes of shareholders do not exist indefinitely¹⁵.

(C) Complex Regulatory Framework

India's corporate governance framework is governed by multiple regulations, including the Companies Act, 2013, SEBI regulations, and the Insolvency and Bankruptcy Code, 2016. This complex regulatory landscape can create confusion and difficulties in enforcement. For example, while SEBI regulations focus on transparency and disclosure, the Companies Act addresses shareholder rights and company management. In cases of regulatory overlap, companies often exploit ambiguities to their advantage, creating challenges for shareholders in seeking redressal¹⁶.

(D) Limited Shareholder Awareness and Participation

Despite the growing trend of shareholder activism, many shareholders, especially retail investors, lack awareness of their rights and the procedures to exercise them. This limited awareness hinders effective participation in corporate governance matters such as voting on resolutions, raising concerns during Annual General Meetings (AGMs), and challenging decisions through legal channels. The low participation rate in AGMs and voting processes indicates that many shareholders are either unaware of their rights or lack the necessary knowledge to exercise them effectively.

(E) Judicial Backlogs and Lengthy Litigation

The Indian judicial system is notorious for its backlog of cases and lengthy litigation processes. Shareholders often have to wait several years for their cases to be resolved, which can be discouraging. While the NCLT and the National Company Law Appellate Tribunal (NCLAT) have been established as specialized forums to expedite the resolution of corporate disputes, they too are burdened with a high volume of cases, leading to delays in delivering justice¹⁷.

For instance, in the **Tehri Bandh Virodhi Sangharsh Samiti v. State of Uttar Pradesh** (2005)¹⁸ case, the Supreme Court had to intervene multiple times to address the concerns of stakeholders, highlighting the challenges of ensuring timely resolution of shareholder grievances.

(F) Lack of Regulatory Oversight for Promoter-Controlled Companies

¹⁵ Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2023, Gazette of India, Part III, Sec. 4 (Mar. 28, 2023)

¹⁶ Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016 (India).

¹⁷ Ministry of Law and Justice, Government of India, Report of the National Company Law Tribunal and Appellate Tribunal (NCLT & NCLAT) Performance Review Committee, Mar. 12, 2021, available at <https://www.mca.gov.in>

¹⁸ *Tehri Bandh Virodhi Sangharsh Samiti v. State of Uttar Pradesh*, (2005) 11 SCC 515 (India)

In many Indian companies, promoters often wield significant control over the board of directors and key management positions, limiting the influence of other shareholders. This concentration of power can lead to governance issues such as insider trading, misuse of funds, and lack of transparency in business dealings. Regulatory bodies like SEBI have introduced measures to curb these practices, such as the requirement for independent directors and increased disclosures. However, the effectiveness of these measures is often undermined by weak enforcement and monitoring mechanisms.

The **M.C. Mehta v. Union of India (2022)**¹⁹ case reiterated the importance of independent regulatory oversight to ensure that promoters do not override the rights of minority shareholders and other stakeholders. The Supreme Court emphasized the need for SEBI and other regulatory bodies to take a proactive approach in monitoring corporate actions and enforcing compliance with governance standards.

VI. RECENT SUPREME COURT OF INDIA CASES ON SHAREHOLDER RIGHTS

The Supreme Court of India has recently addressed several important cases that have significant implications for shareholder rights and corporate governance. Below is a summary of the key decisions from 2023 and 2024:

Shakti Yezdani & Anr. v. Jayanand Jayant Salgaonkar & Ors. (2023 SCC OnLine SC 1679): This case clarified the rights of nominees under the Companies Act, 2013, upon the death of a shareholder. The Supreme Court held that provisions relating to nomination for shares under Section 72 of the Companies Act do not override succession laws under the Indian Succession Act, 1925. This judgment resolved the long-standing debate on the conflict between nomination rights and succession laws in the context of company shares, ensuring that shareholder rights are balanced against the statutory provisions of inheritance law.

Anoop Baranwal v. Union of India (2023)²⁰: This judgment addressed the governance issues concerning the role of the Lieutenant Governor in the administration of the National Capital Territory of Delhi. While not directly related to shareholder rights, the case reinforces the principle of representative democracy and accountability in public governance, which are also core principles of corporate governance frameworks in India.

Teesta Atul Setalvad v. State of Gujarat (2023)²¹: This judgment, while primarily addressing criminal law and public interest, has implications for corporate governance as it examined the extent to which state agencies and their executives can be held accountable. The Supreme

¹⁹ **M.C. Mehta v. Union of India**, (2022) 10 SCC 1 (India)

²⁰ **Anoop Baranwal v. Union of India**, (2023) 4 SCC 401 (India).

²¹ **Teesta Atul Setalvad v. State of Gujarat**, (2023) 6 SCC 88 (India)

Court's decision emphasized the need for independent functioning of enforcement agencies, which can also be extrapolated to the accountability of regulatory bodies in corporate governance

Government of NCT of Delhi v. Union of India (2023)²²: This case dealt with the administrative control of civil servants and executive authority in Delhi. Although it was focused on constitutional law, the principles of executive power and autonomy have indirect relevance for corporate governance, particularly in terms of the autonomy of boards of directors and corporate management in the face of external interference.

Dr. Jaya Thakur v. Union of India (2023)²³: This case examined the tenure extensions of the directors of the Central Bureau of Investigation (CBI) and Enforcement Directorate (ED), highlighting concerns over executive influence. The Supreme Court's ruling that further tenure extensions are illegal reinforces the principle of independent governance, which is crucial for the enforcement of corporate laws and the protection of shareholder rights from arbitrary decisions.

The implementation of shareholder rights in India is fraught with challenges that stem from delayed enforcement, majority-minority power dynamics, a complex regulatory framework, and limited awareness among shareholders. While recent amendments and judicial decisions have sought to address these challenges, effective implementation remains a significant hurdle. Strengthening regulatory oversight, promoting shareholder education, and ensuring timely resolution of disputes will be key to safeguarding shareholder rights and enhancing corporate governance in India²⁴.

VII. CONCLUSION

The landscape of corporate governance in India has undergone a significant transformation in recent years, driven by a series of legal reforms and regulatory initiatives aimed at strengthening shareholder rights and promoting responsible corporate conduct. The introduction of amendments to the Companies Act, 2013, and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, along with evolving jurisprudence, has led to enhanced transparency, accountability, and shareholder protection. These changes signify a paradigm shift in corporate governance practices, aligning India with

²² **Gov't of NCT of Delhi v. Union of India**, (2023) 5 SCC 1 (India)

²³ **Dr. Jaya Thakur v. Union of India**, (2023) 9 SCC 418 (India)

²⁴ Ministry of Corporate Affairs, Government of India, Report on the Review of the Corporate Governance Framework, Jan. 12, 2022, available at <https://www.mca.gov.in> (discussing the challenges and suggested reforms for improving shareholder rights and governance in India)

global standards and enabling a more robust mechanism for shareholder engagement and participation.

Key amendments, such as the SEBI (LODR) Second Amendment Regulations, 2023, have empowered shareholders by mandating more stringent disclosure requirements, enforcing periodic review of special rights conferred to shareholders, and necessitating shareholder approval for critical management decisions. Similarly, landmark judicial pronouncements—such as *Invesco Developing Markets Fund v. Zee Entertainment Enterprises Ltd.* and *M.K. Ranjitsinh v. Union of India*—have further clarified and enforced shareholder rights, ensuring that minority shareholders are not disproportionately affected by majority decisions. These developments underscore the judiciary's proactive stance in safeguarding the interests of minority shareholders and upholding the principles of equity and fairness in corporate decision-making.

Despite these advancements, the effective implementation of shareholder rights remains a formidable challenge. The issues of delayed enforcement, procedural complexities, high litigation costs, and the dominance of majority shareholders continue to hinder the realization of shareholder rights in practice. Majority shareholders, particularly in promoter-driven companies, often wield disproportionate power, leading to an imbalance that undermines the protection of minority interests. This power dynamic is exacerbated by procedural tactics, such as issuing new shares to dilute minority holdings or engaging in selective buy-backs, which can limit the participation of minority shareholders in key decisions.

Moreover, the complex and overlapping regulatory framework, involving multiple statutes like the Companies Act, 2013, SEBI regulations, and the Insolvency and Bankruptcy Code, 2016, often creates ambiguities that companies exploit to their advantage. These challenges are further compounded by a lack of shareholder awareness and engagement, especially among retail investors, which impedes effective participation in governance matters and the exercise of their rights. Judicial delays and the backlog of cases at the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) also pose significant hurdles in timely dispute resolution, thereby discouraging shareholders from pursuing legal remedies²⁵.

To address these issues, a multi-pronged approach is necessary. Strengthening regulatory oversight through enhanced monitoring and enforcement mechanisms is crucial to ensuring that companies comply with governance standards and that shareholder rights are upheld. Promoting shareholder education and awareness will empower shareholders to actively engage in corporate

²⁵ Ministry of Corporate Affairs, Government of India, Report of the National Company Law Tribunal and Appellate Tribunal (NCLT & NCLAT) Performance Review Committee, Mar. 12, 2021, available at <https://www.mca.gov.in>

governance and safeguard their interests. Additionally, streamlining judicial processes and reducing delays in the resolution of corporate disputes will play a vital role in restoring confidence in the efficacy of legal remedies available to shareholders.

The role of the judiciary and regulatory bodies such as SEBI will be instrumental in navigating these complexities and ensuring that recent reforms translate into tangible improvements in corporate governance practices. As India continues to refine its corporate governance framework, fostering a balance between the rights of majority and minority shareholders will be essential in creating a more equitable and transparent corporate environment. The ultimate success of these initiatives will depend not only on the enactment of laws and regulations but also on their effective implementation and the active engagement of all stakeholders in the corporate ecosystem²⁶.

In conclusion, while the evolving legal and regulatory framework in India has made commendable strides in strengthening shareholder rights and enhancing corporate governance, the journey is far from complete. Continued efforts to bridge the gap between legislative intent and on-ground realities, coupled with a focus on equitable and fair corporate practices, will be necessary to achieve a corporate governance regime that is truly reflective of shareholder interests and conducive to sustainable business practices.

²⁶ Securities and Exchange Board of India, Press Release: SEBI Enhances Shareholder Rights through Amendments to the LODR Regulations, Mar. 28, 2023, available at <https://www.sebi.gov.in/media/press-releases>