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SHAREHOLDERS' RIGHTS**

ABSTRACT

Balancing the powers of the majority shareholders with the rights of the minority shareholders is an uphill task. Moreover, the management, which is required to work in the interest of the company, at times has a hand in glove relationship with the majority shareholders. This, in turn means, that it ignores harassment allegations made by minority shareholders against the majority group.

Taking note of such a scenario, the study discusses the rights of the minority shareholders and the remedies provided to them in the event of breach of such rights. The rights of the shareholders may be statutory or be found in the articles of association or shareholders' agreement. Shareholders enjoy the right to freely sell their shares, get the declared dividends, appoint directors, participate and call meetings, vote during the meetings, seek information from the Company by examining its registers and documents and so on. The study also deliberates on the remedies available to the minority shareholders' for breach of these rights. The remedies range from informal mode such as approaching the Stakeholders Relationship Committee for any grievance, to blocking the related party transactions or asking for investigation in the Company's affairs, to taking strict measures such as suing the Company for any misinformation in the prospectus, oppression and mismanagement, winding up the Company and finally exiting from the company. The study also discusses in elaborate detail other remedies such as those provided by the Common Law, the market control remedies and self-discipline remedies.

The Companies Act, 2013, has introduced laud worthy measures for protecting the rights of minority shareholders such as provisions relating to class action suits, related party transactions, appointment of independent directors and entrenchment and so on. That being said, the Companies Act, 2013 does not define the terms ‘minority interest’ or ‘minority shareholders’. Neither does it have a provision for derivative action suits by the shareholders. Moreover, the Companies Amendment Act, 2015 has diluted the law regarding related party transactions. The minority shareholders object that despite the new Act they still have inadequate representation on the Board of Directors. Additionally, most of the remedies of the minority shareholders provide for judicial intervention at every step.

Analysing the above issues, the researcher reached the conclusion that the minority shareholders have adequate rights under the Company Law. However, the remedies though available to them, require constant judicial supervision for active enforcement, thus making the rights ineffectual. The corporate market too is not yet fully sensitised on the rationale for the protection of minority shareholders. Moreover, the education of minority shareholders about their rights is essential for them to be heard and exert influence. Knowledge and awareness about the rights will lead to shareholder activism, which is a powerful tool in ensuring a vibrant and efficient capital market.

Based on the above findings, the recommendations, *inter alia*, are as follows:

- i. Amendment of Company Law to incorporate equality principle.
- ii. Minority and ‘Minority Interest’ should be specified in the substantive Law.
- iii. Statutorily recognise derivative action claims in the Companies Act, 2013.
- iv. The provisions of appointment of directors by proportional representation should be made mandatory. The specific minority appointed director/independent director could also play an important role in investor protection.
- v. Re-introduction of provision of approval of related party transactions by “majority of the minority”.
- vi. Better Education of Shareholders about their rights.