



# Corporate Governance - Practical Aspects Independent Directors

- Companies Act 2013 with recent amendments

By

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Registrar inspection - Aug 29,2022  
No signboard outside warehouse company

Notice sent to Company for fine Aug 29

Company responded – Nov 30,2022  
“due to heavy floods it was washed away  
and subsequently fixed in 2 days ie August  
31,2022”

**Penalty levied from day of inspection till date of  
response to notice ie 94 days on 5 Directors of  
Rs 1,00,000 each**

# Sign board at Registered office of company M/s Sukhasan Farmer Producer Company Limited 2022

S 123 Paint / affix  
name and address of its  
registered office AND

Outside of EVERY  
office or place in which  
its business is carried  
on,

Conspicuous position,

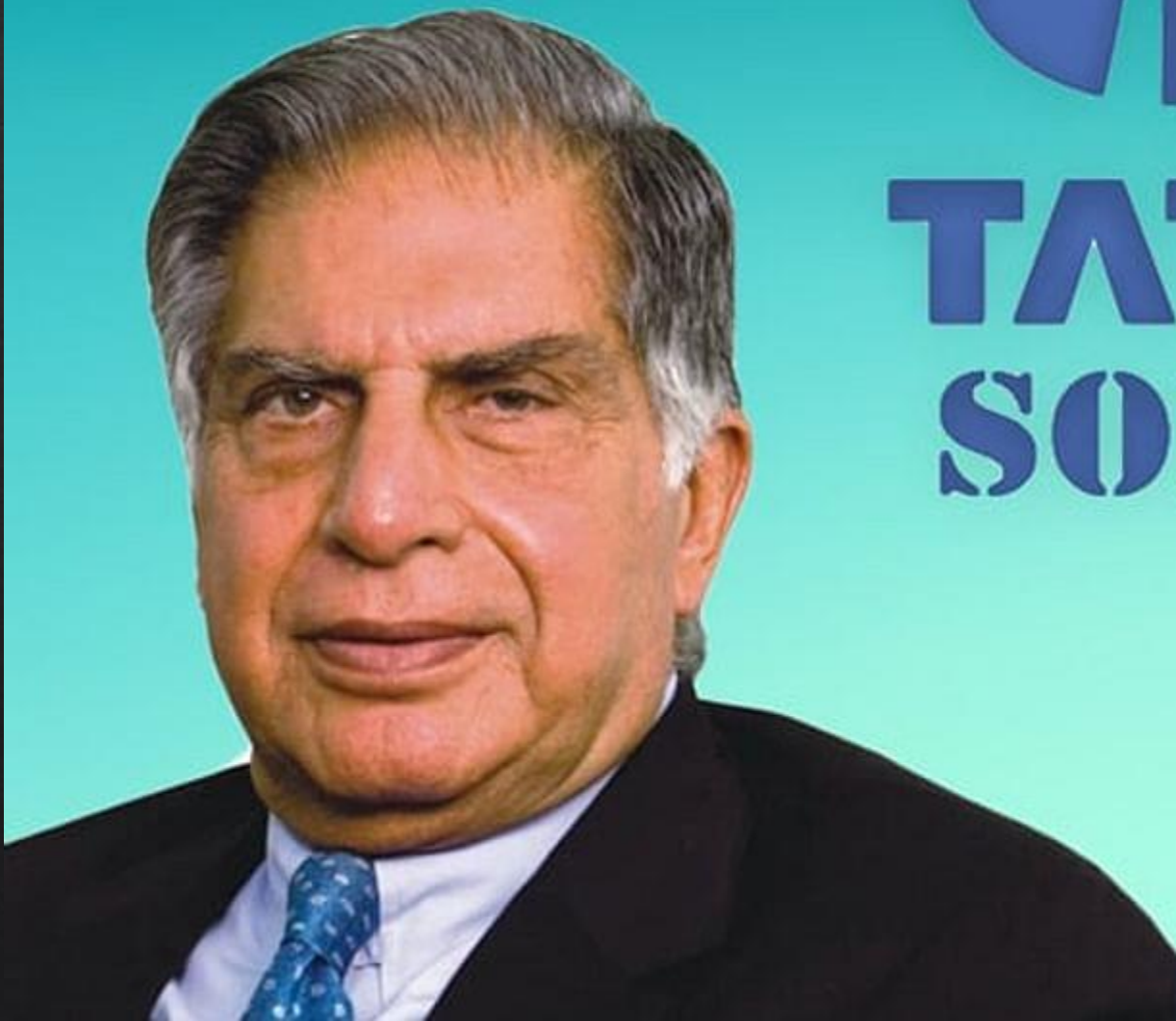
In legible letters

12(8) Company & every  
Officer who is in default  
Penalty of Rs 1000 for  
every day not exceeding Rs  
1,00,000 .

Section 446B penalty  
not more than  $\frac{1}{2}$  of fine  
up to Rs 2,00,000



**TATA  
SONS**

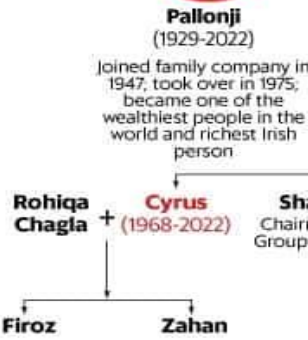
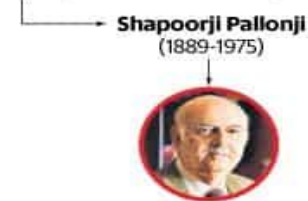


# 'One of business world's brightest stars'

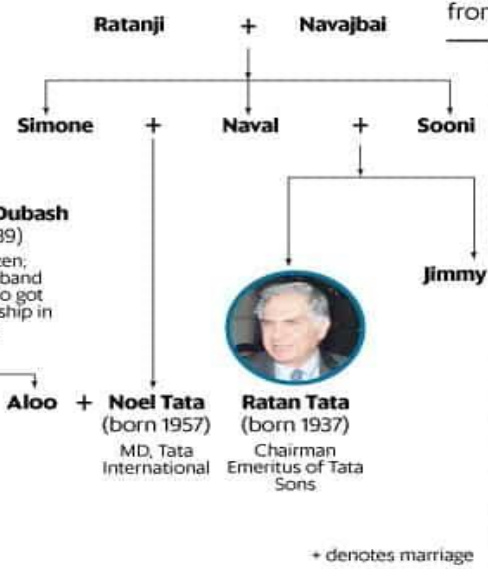
A former chairman of Tata Sons, Cyrus Mistry died in a road accident on Sunday. Mistry took over the reins of Tata group in 2012. The youngest son of construction baron Pallonji Mistry, Cyrus started his career as a director of Shapoorji Pallonji & Co. in 1991.

## PALLONJI MISTRY

Co-founded construction business Littlewood Pallonji in 1865, which later became Shapoorji Pallonji Group



## TATA FAMILY



## 4 July 1968: Born to construction baron Pallonji Shapoorji Mistry.

Completed Bachelor of Engineering in civil engineering from Imperial College of London

**1991**  
**APPOINTED** director of Shapoorji Pallonji & Company

**1994**  
**PROMOTED** to the post of managing director

**2006**  
**JOINED** Tata Sons board. At Tata Sons, he was appointed director of Tata Power and Tata Elxsi

**2011**  
**APPOINTED** deputy chairman of Tata group

**2012**  
**SUCCEEDED** Ratan Tata to become chairman at Tata group, the second non-Tata in the role

**Oct 2016**  
**TATA** Sons board voted to remove Mistry from his post

**Dec 2019**  
**NATIONAL** Company Law Appellate Tribunal reinstated Mistry as chairman for remaining term

**Jan 2020**  
**TATA** Sons moves Supreme Court against NCLAT's decision.

**2021**  
**SC** sets aside NCLAT order

**4 Sep 2022**  
**CYRUS** Mistry killed in road accident



### SP Group's business landscape

- ▶ Construction
- ▶ Real estate
- ▶ Textiles
- ▶ Engineered goods
- ▶ Home appliances
- ▶ Shipping
- ▶ Publications
- ▶ Power
- ▶ Biotechnology

### SP Group's notable construction projects

- ▶ BRABOURNE Stadium, Mumbai, 1937
- ▶ BANK of India, Mumbai, 1944
- ▶ RESERVE Bank of India (old building), Mumbai, 1939
- ▶ MAHATMA Mandir, Dandi Kutir, 1962
- ▶ TAJ Mahal Palace - Tower Wing, Mumbai, 1970
- ▶ MAFATLAL Centre, Mumbai, 1970
- ▶ QASR Al Alam Palace, Oman, 1975
- ▶ RESERVE Bank of India (new building), Mumbai, 1980
- ▶ DLF IT Park, Gurugram, 2009
- ▶ JAMMU Udhampur Highway, Jammu, 2014



Company's Articles of Association,  
Chairman can only be removed by the  
board members

- Committed any fraud,
- Involved in any kind of internal mismanagement, or
- Found disloyal to the company;

Cyrus Mistry has not met any of the above conditions.

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Tata Sons abused their powers and Tata Trust exercised control over the Tata Sons board.

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Fraudulent transaction worth Rs. 22 crore in Air Asia by Tata Trusts.

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The losses suffered in Nano car project clearly depicts the oppression and mismanagement

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The acquisition of Corus at overpayment by Tata Trusts.

# Boardroom battle!

**What constitutes oppression and mismanagement at a company?  
[18% Minority holder]**

**How far do a tribunal's powers go when deciding such a case?  
[SC overturned NCLAT]**

**Should nominee directors of a majority shareholder have  
substantial affirmative powers?**

**The legality of Tata Sons' conversion from public company to  
private company.**

**The fate of Mistry's directorship on the Tata Sons board.**





**“Removal as chairman is not oppressive /mismanaged /prejudicial manner damaging the interests of the company, its members or the public**

**Company Law Tribunal cannot interfere with the removal of a person as a Chairman of a Company in a petition under Section 241 of the Companies Act, 2013.**

**Mere removal of a person as Chairman of the Company is NOT a subject matter under Section 241**

**The court held that Sections 241 and 242 of the Companies Act, 2013 do not specifically confer the power of reinstatement.**



If Aishwarya Rajinikanth is a Director in Basha Private Limited & Rajini is not a Director but closely involved in all decisions of the company.

Will he be considered as a Director?

# f understanding of Company Director

## Introduction

- ◆ Sec 2(34), Director :  
Director appointed to the Board of a company
- ◆ Sec 2 (10), Board of Directors : In relation to a company, means the collective body of the directors of the company
- ◆ Appointed Vs Occupying position of Director



# Statutes Applicable




COMPANIES ACT 2013  
SCHEDULE IV  
COMPANIES AMENDMENT ACT  
2022



COMPANIES (APPOINTMENT &  
QUALIFICATION OF  
DIRECTORS) RULES 2014  
– COMPANIES (CREATION AND  
MAINTENANCE OF DATABANK  
OF INDEPENDENT DIRECTORS)  
RULES, 2021  
– COMPANIES (ACCOUNTS)  
AMENDMENT RULES, 2019



LODR REGULATIONS –  
LISTING OBLIGATION &  
DISCLOSURE  
REQUIREMENT  
LISTING AGREEMENT –  
CLAUSE 49

An illustration of an elderly man with white hair and glasses, looking confused with his hands on his head. A thought bubble above him contains a large red question mark. The background is a teal gradient with a large light teal circle behind the man.

Can a director in one company be an employee in another company?

# Importance of Role of Director

- Considered as KMP
- Resident Director requirement [amendment]
- Management of business
- Objective and policies of Company
- More accountability & corporate governance
- Executive & Non-Executive director



COMMUNICATION



IS KEY!

DIRECTOR CHANGE

Appointment of Director



# Appointment Of Directors



Subscribers to  
memorandum

- First Director [Sec 152]



Member

- Every director other than first  
director to be appointed in  
General Meeting



Board of  
Directors

- Alternate Director  
- Additional Director  
- Casual Vacancy



Third Parties

- Central Government  
- Tribunal  
- Proportional representation

# Appointment by Directors [Sec 161]

## Additional Director

- Power conferred in AOA
- Hold office upto date of next AGM
- **Within the limit of total directors for Company**
- **Fails to get appointed at AGM cannot be director**

## Alternate Director

- AOA or by resolution in general meeting
- **Absent for 3 months from India**
- Vacate office when director returns to India

## Casual Vacancy

- Applicable for **Public company** & subsidiary
- Death , resignation , disqualified, insolvent causes casual vacancy
- Tenure : Entire period of person replaced
- No vacancy for non rotational director appointed otherwise than by AGM



Can additional director be appointed as Managing director [Y/N]?

Can additional director continue in office when AGM is postponed [N/Y]?

Applicable : All  
Private and Public  
Limited Companies  
and One Person  
Companies (OPC)



# Criteria [Sec 149]



**Minimum Directors :**

- a) Public Company – 3**
- b) Private Company – 2**
- c) One person – 1**



**Maximum Directors in a Company : 15 [NA to Sec 8 Co]  
More than 15 through special resolution**



**Maximum Directorships held by a person [Sec 165]: 20  
[Including alternate directors, maximum limit for public company :10]**

**Penalty of Rs 2000 per day and disqualified u/s 164 in ALL companies of  
directorship**



# MAXIMUM DIRECTORSHIP

Will private company being subsidiary/ holding of public company be included? [165]



Can a Company be appointed as a Director of another company? [N/Y]

Can multiple Directors be appointed by a single resolution? [unanimous members]

# Compliance on appointment

## DIN [Sec 154]

- ◇ Apply for allotment of DIN in Form DIR -3
- ◇ Declaration that he is not disqualified
- ◇ Once appointed : Consent in Form DIR -2
- ◇ Pass resolution for appointment
- ◇ Form DIR - 12 filed with the registrar 30 days
- ◇ Failure to notify Registrar punishable with imprisonment of 6 months or fine of Rs 5000
- ◇ Non compliance continues additional Rs 500 per day
- ◇ DIR 3KYC – 2018 introduced annual compliance before September 30

## Notice of Interest [Sec 184]

- ◇ Sec 184(1) r.w. Rule 9(1) Meetings of Board Every Director :
- ◇ First board meeting as a director AND
- ◇ First board meeting each financial year OR
- ◇ First meeting after change in the disclosures disclose his Interest in any company/firm/AOP, including details of the shareholding in Form MBP 1
- ◇ Imprisonment of 1 year or Rs 1 lakh



- ◇ **Directors of multiple Companies**
- ◇ **'Kanchan Creation' for the purpose of providing and managing manpower**
- ◇ **No business for 3 years & bank accounts not in operation**
- ◇ **Not filed return**
- ◇ **Directors disqualification u/s 164(2)**
- ◇ **Name of the company was Struck Off by the ROC.**

**DIN Deactivated?**

Vacation of office  
of director –  
**DIN Cancelled?**  
Abbas Maru v. Union of  
India High court of MP  
[2022]

## DIN can be cancelled only

Moving an application to cancel to Registrar

Opportunity of being heard



Sec 164 disqualification and 167 removal of director does not mention cancellation of DIN



DIR 9 Should be filed within 30 days of non compliance : Report by Company to Registrar for disqualification of Director

# Duomatic Principle - Supreme Court Mahima Datla Vs Renuka Datla SC 2022


**Mrs X and Y directors of a Company, which was started by Mr X ie the husband (now deceased)**



**Mr Y resigned, After resignation Mr Y submitted letter to company for withdrawal of Resignation**



**Mr Y held board meeting wherein 81% of shares held by Mr X (will) was transferred to their Daughter**



**Another board meeting conducted and appointed the Daughter as MD. Both meeting ratified in AGM**



**Mrs X raised an objection but was denied as she could not bring suit as she owned less than 10% shareholding [1/10] – civil dispute**

# Appointment of Daughter Mahima Datla Vs Renuka Datla SC 2022

## CLB :

- Transfer done as per AOA in board meeting.
- Profitable company no question of oppression of shareholders
- Only complaint of director no cause of wind up

## High Court :

- Oppression of director
- Mr Y after resignation cannot convene board meeting to transfer shares
- All Acts Nul and Void favor of Mrs X

# KINDS OF DIRECTORS

[Sec 161]



TYPE	DESCRIPTION
<b>WOMEN DIRECTOR</b>	a) LISTED COMPANY & b) PUBLIC COMPANY <b>Paid up capital &gt; Rs 100 crores, or Turnover &gt; Rs 300 crores</b>
<b>INDEPENDENT DIRECTOR</b>	a) LISTED COMPANY b) PUBLIC COMPANY <b>Paid up capital &gt; Rs 10 crores, or Turnover &gt; Rs 100 crores, or Loans/debentures/deposits &gt; 50 crores</b>

An illustration of a business meeting. A man with glasses, wearing a dark suit, white shirt, and red tie, stands at a whiteboard. He is smiling. In front of him, several people are seated at a long white table. The people are shown from the back or side, wearing business attire. One person has a blue briefcase on the floor next to their chair. The background is a plain light blue wall.

Effort Vs  
Result

Independent Directors –  
Section 149

TYPE	DESCRIPTION
INDEPENDENT DIRECTOR	a) LISTED COMPANY b) PUBLIC COMPANY Paid up capital > Rs 10 crores, or Turnover > Rs 100 crores, or Loans/debentures/deposits > 50 crores

a) LISTED COMPANY

b) PUBLIC COMPANY

**Paid up capital > Rs 10 crores, or  
Turnover > Rs 100 crores, or  
Loans/debentures/deposits > 50  
crores**

Not satisfy ID  
criteria next  
year?

Conditions for 3 years cease to  
fulfil then need not employ ID





# Number of Independent Director

As per Companies Act 2013

Listed Public Companies

At least **1/3** of Total Director

Unlisted Public Companies

At least 2 Director

As per Clause 49 of Listing Agreement

Where **Chairman** is **Non Executive** Director

At least **1/3** of Total Director

Company does **not** have **Regular Non-Executive** Chairman

At least **HALF** of Total Director

# Requirement

All Listed Companies [1/3 board]

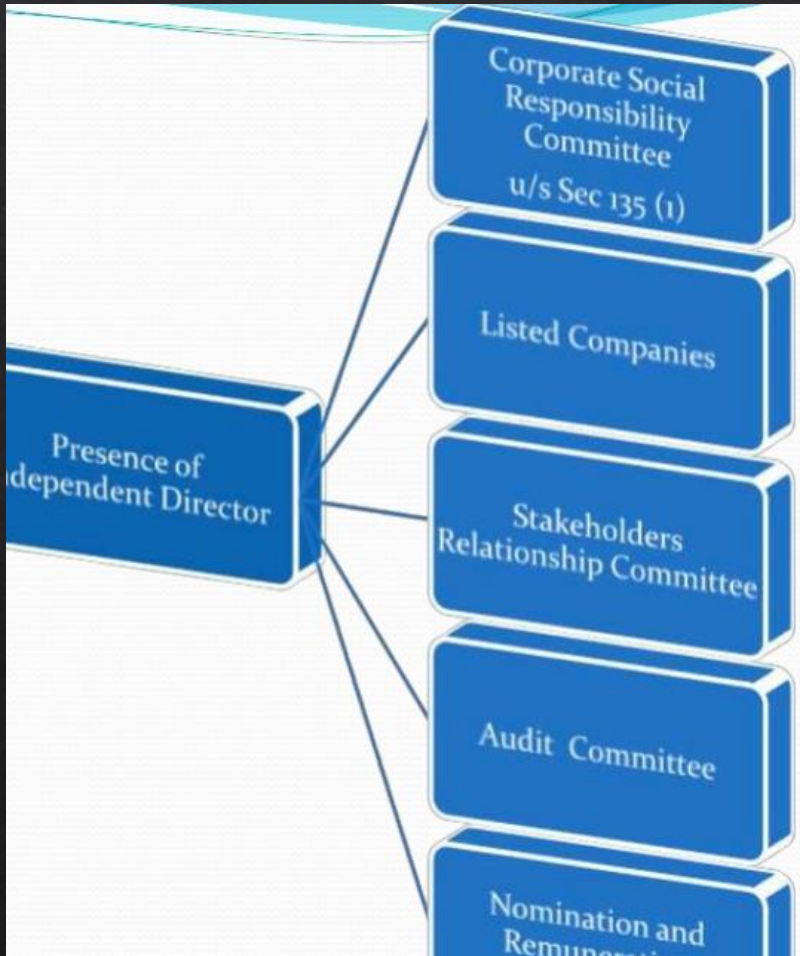
Audit Committee & NRC - Majority [Minimum 3 directors] 2/3 Independent for Listed

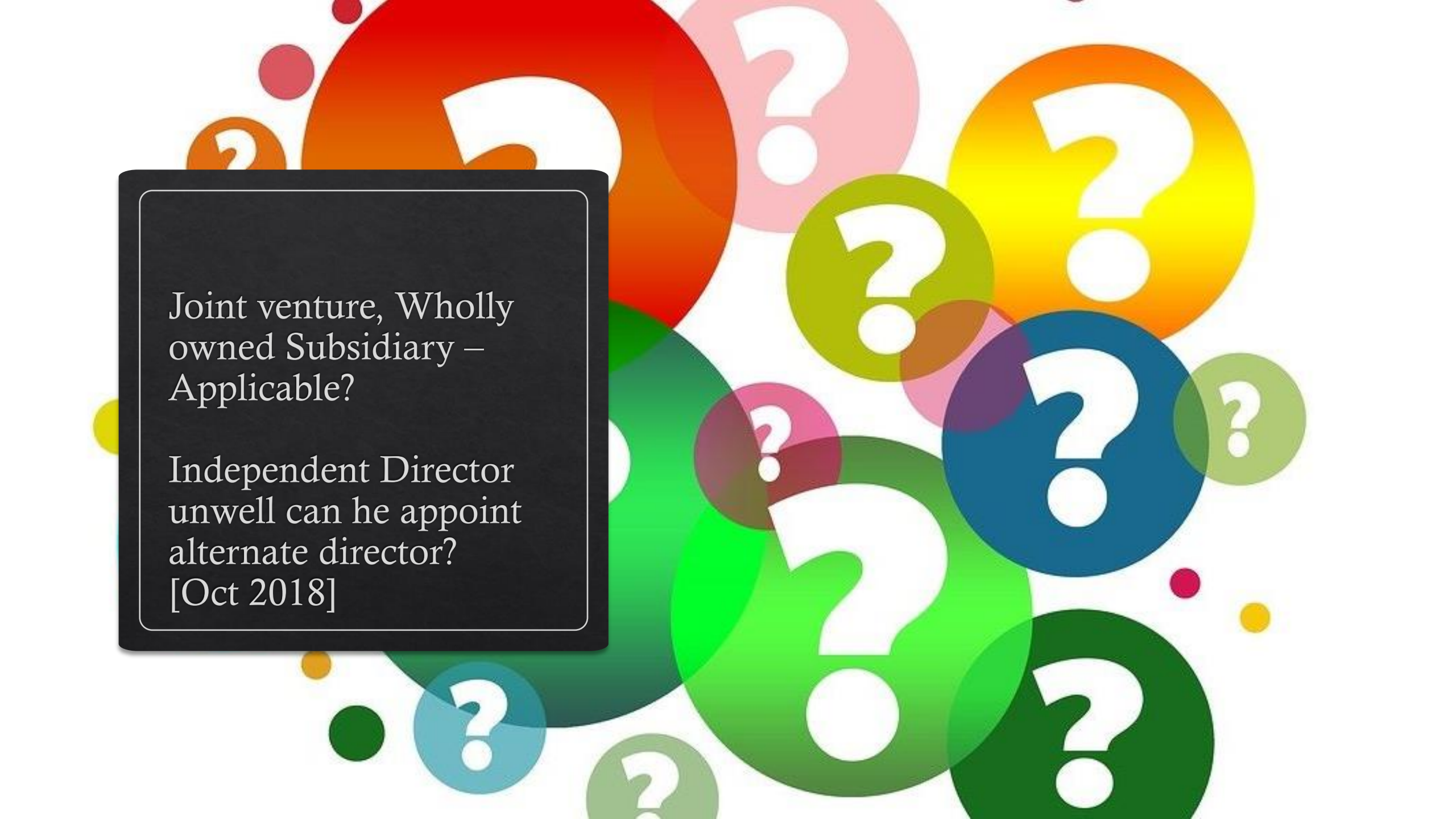
CSR Committee – 1 Director

Public Companies – atleast 2 directors

Amount as on last audited FS

- Paid up Capital Rs 10 crore or more
- Turnover more than Rs 100 crores
- Outstanding loan, debentures, deposit more than Rs 50 crores



The background of the slide is white and filled with numerous question marks of various colors and sizes. The colors include red, orange, yellow, green, blue, and purple. Some question marks are large and prominent, while others are smaller and more faded. There are also small, solid-colored circles scattered throughout the background, matching the colors of the question marks.

Joint venture, Wholly  
owned Subsidiary –  
Applicable?

Independent Director  
unwell can he appoint  
alternate director?  
[Oct 2018]



# Voluntary Appointment of Independent Director

# Appointment of Independent directors

Every Listed company :at least 1/3 of the total number of directors  
A director other than managing directors or a whole-time director or a nominee director

who, in the opinion of the board , is a person of **integrity** and possesses relevant expertise and experience.

Mtech in Pharma

who has or had **no pecuniary relation other than remuneration or transaction <10% of his total income** of the company [CY and 2 PY]

who is **not a promoter** of the company or its holding, subsidiary or associate company

who is **not related** to the promoters or directors in the company, its holding, subsidiary or associate company





XYZ Bank grants a loan of ₹ 20 lakhs to C Ltd.  
XYZ Bank appoints Mr. S as nominee director in C Ltd.

Can Mr. S become an Independent Director in A Ltd?

# Appointment of Independent directors

who, in the opinion of the board, is a person of integrity and possesses relevant expertise and experience.

who is not a promoter of the company or its holding, subsidiary or associate company

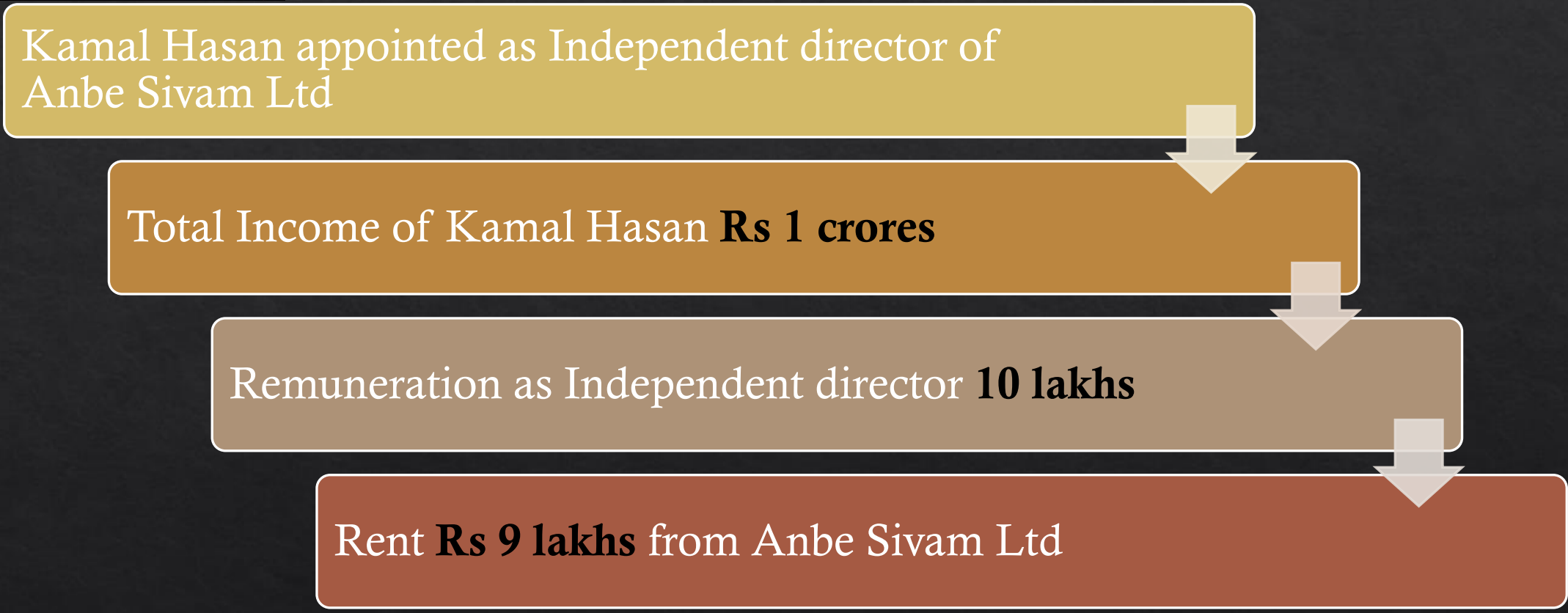
who has or had **no pecuniary relation other than remuneration or transaction <10% of his total income** of the company [CY and 2 PY]

who is not related to the promoters or directors in the company, its holding, subsidiary or associate company





# CASE – Sec 149 (6)(c)



who has or had no [pecuniary relationship, **other than remuneration** as such director or having transaction not exceeding **10% of HIS total income** or such amount as may be prescribed,] with the company/ holding/ subsidiary/ associate/ promoters/ directors, during 2 preceding / current financial years



# Appointment of Independent directors

who, in the opinion of the board, is a person of integrity and possesses relevant expertise and experience.

who is not a promoter of the company or its holding, subsidiary or associate company

who has or had no pecuniary relation other than remuneration or transaction <10% of his total income of the company [CY and 2 PY]

who is not **related** to the promoters or directors in the company, its holding, subsidiary or associate company



	Act 2013	Act 1956		Act 2013	Act 1956
Members and HUF	Y	Y	Husband and wife	Y	Y
Father (including step-father)	Y	Y	Mother (including step-mother)	Y	Y
Father's father	N	Y	Mother's father	N	Y
Father's mother	N	Y	Mother's mother	N	Y
Son (including step-son)	Y	Y	Daughter ( <b>NOT MENTIONED including step-daughter</b> )	Y	Y
Son's wife	Y	Y	Daughter's husband	Y	Y
Son's son/ daughter	N	Y	Daughter's son daughter	N	Y
Son's son's wife	N	Y	Daughter's son's wife	N	Y
Son's daughter's husband	N	Y	Daughter's daughter's husband	N	Y
Brother	Y	Y	Sister	Y	Y

Relative [Sec 2(77) & Rule 4]

# Relatives u/s 2(77)



HARIVANDHI BAI BACHCHAN



JAYA BACHCHAN



AISHWARYA RAI BACHCHAN



ABHISHEK BACHCHAN



AMITABH BACHCHAN



TEJI BACHCHAN



AJITABH BACHCHAN



SHWETA NANDA



NISHU NANDA



# Appointment of Independent directors

who, in the opinion of the board, is a person of integrity and possesses relevant expertise and experience.

who is not a promoter of the company or its holding, subsidiary or associate company

who has or had no pecuniary relation other than remuneration or transaction <10% of his total income of the company [CY and 2 PY]

who is not related to the promoters or directors in the company, its holding, subsidiary or associate company





## Whether Aishwarya Rai can be appointed as Independent Director in a company with Amithab as Promoter

- ◇ 2(77) Covers Daughter in Law but does NOT cover Father in Law
- ◇ For checking we usually list the relatives of the person (ie Aishwarya) and check whether they are related to the promoter or director of CASH

	Act 2013	Act 1956		Act 2013	Act 1956
Members and HUF	Y	Y	Husband and wife	Y	Y
Father (including step-father)	Y	Y	Mother (including step-mother)	Y	Y
Father's father	N	Y	Mother's father	N	Y
Father's mother	N	Y	Mother's mother	N	Y
Son (including step-son)	Y	Y	Daughter ( <b>NOT MENTIONED including step-daughter</b> )	Y	Y
Son's wife	Y	Y	Daughter's husband	Y	Y
Son's son/ daughter	N	Y	Daughter's son daughter	N	Y
Son's son's wife	N	Y	Daughter's son's wife	N	Y
Son's daughter's husband	N	Y	Daughter's daughter's husband	N	Y
Brother	Y	Y	Sister	Y	Y

Relative [Sec 2(77) & Rule 4]

◇ **Relatives** did not have pecuniary relationship with holding /subsidiary/ associate/ promoter/ directors **more than 2% of turnover/total income or 50 lakhs** whichever lower during 2 previous or CY

◇ **Self or Relatives not KMP/ employee of holding/subsidiary/associate for 3 previous years.**

For relative who is an employee for 3 years will not apply.

◇ Not been employee/proprietor/partner in firm of **CA/CS/CMA** or **legal** or consulting [**>10%** gross turnover] for the company/ holding/ subsidiary/ associate [3 PY]

◇ Not hold together with relative more than **2% voting power**

◇ Not a CEO/ director of **Non profit** that receives more than 25% from director/promoter of holding/subsidiary/associate



Can Rajinikanth Marketing Manager (employee) of Bhasha Ltd be appointed as Independent Director? N

Can Soundarya Rajinikanth be appointed as Independent director of Bhasha Ltd ? Y

**Even if a relative of director is employee of company during preceding 3 financial years, person can still be qualified as 'independent director'.**



## Code of Independent Director – Schedule IV

- ◇ Guidelines of Professional Conduct
- ◇ Role & Functions
- ◇ Duties
- ◇ Manner of Appointment
- ◇ Re Appointment
- ◇ Meetings
- ◇ Evaluation Mechanism



Appointment  
of  
Independent  
Director



# Process of Appointment

Approval -Ordinary Resolution in General Meeting

For Listed company – Special resolution wef Jan 1,2022

Notice for GM to include Board approval with act

Posted on Company website

Issue Formal letter of appointment to Independent director including

- Term of appointment
- Expectation from board
- Duties & liabilities
- Code of Ethics
- Remuneration
- Submit to Stock exchange

## Approval process effective from 1st January, 2022



- Evaluate the balance of skills, knowledge and experience

- Prepare description of roles & capabilities

- Identify suitable candidates

Identifying suitable candidates,

1. use the services of an external agencies,;
2. consider candidates from a diverse backgrounds
3. consider the time commitments of the candidates

# Notice for appointment

- ◆ 7 days before General Meeting inform Members
  - ◆ Service of individual notice to ALL members
  - ◆ Notice of candidature on website
  - ◆ Vernacular & English news paper ad
  - ◆ Make Entry in Register of Directors

# Terms of Office



5 YEARS



REAPPOINTMENT BY  
SPECIAL RESOLUTION  
FOR ONE MORE TERM  
ONLY ON PERFORMANCE  
EVALUATION



COOLING PERIOD OF 3  
YEARS [NOT BE  
ASSOCIATED IN ANY  
CAPACITY]

Can a company  
appoint  
independent  
director for less than  
5 years?

MCA circular no. 14/2014 dated  
9<sup>th</sup> June, 2014 clarifies  
that **Independent Director**  
can be **Appointed** for less than  
**5** consecutive years.

However no **independent director** shall  
hold office for more **than** two  
consecutive terms.



# ROLE OF INDEPENDENT DIRECTOR

**Independent judgment**  
to bear on the Board's  
deliberations

Objective view in the  
**evaluation of the  
performance of board  
and management**

Scrutinise the  
performance of  
management in meeting  
agreed goals & **monitor  
the reporting of  
performance**

**Integrity of financial  
information** and that  
financial controls

Safeguard the **interests  
of all stakeholders**,  
particularly the minority  
shareholders

Balance the **conflicting  
interest** of the  
stakeholders

Determine  
**Remuneration/**  
Appointing /Removal  
of executive directors,  
KMP & senior  
management

Moderate / Arbitrate  
in situations of  
**conflict between  
management and  
shareholder's.**



# Meeting – Independent Director

- ◆ **ALL Independent directors to be present**
- ◆ At least **once** a year to review the performance of
  - a) Non independent directors & Board
  - b) Performance of the Chairman
  - c) Assess quality & timeliness of flow of information between board & management

Can be done through video conferencing

# REMUNERATION – INDEPENDENT DIRECTORS

- ◆ **Only sitting fee of Rs 1 lakh per meeting & expense reimbursement**
- ◆ **Profit Related Commission**
- ◆ **No ESOP**
- ◆ **Co Act 2020 : ID can get remuneration where no profit or inadequate profits in the company. Earlier not allowed**
- ◆ **Advisable to pay end of year rather than monthly remuneration**

<b>Effective capital :</b>	<b>Year remuneration IDs if losses</b>
<b>Negative or less than 5 crore.</b>	<b>12 Lakh.</b>
<b>5 crore - 100 crore.</b>	<b>17 Lakh.</b>
<b>100 crore - 250 crore.</b>	<b>24 Lakh.</b>
<b>250 crore and above.</b>	<b>24 Lakh +0.01% of the effective capital in excess of 250 crore.</b>

# Can Remuneration be paid higher than the above limits? Process for Approval?

01

Audit Committee  
[Transaction with related party]

02

Nomination & Remuneration Committee

03

Board of directors

04

Shareholders

05

Secured Creditor/Bank if default in payment



# AGE CRITERIA FOR INDEPENDENT DIRECTOR

21-75 [SEBI]/ 18 [COA]



# PRACTICAL ASPECTS

## Teachers day

GUIDE ON ENROLLING AS INDEPENDENT DIRECTOR

# ID Databank Statistics

As on 04<sup>th</sup> August 2023

**23291**

INDEPENDENT  
DIRECTORS  
REGISTERED

**6772**

WOMEN  
INDEPENDENT  
DIRECTORS  
REGISTERED

**2945**

COMPANIES  
REGISTERED

**10984**

SEARCHES MADE  
BY COMPANIES

**12732**

PASSED ONLINE  
PROFICIENCY  
SELF-ASSESSMENT  
TEST

# How to become an independent director?



**THINGS YOU NEED TO KNOW ABOUT  
INDEPENDENT DIRECTORS  
DATABANK AND MCA EXAM**

- ◆ Selected from databank by Company (IICA)
- ◆ Eligibility criteria and online proficiency test within **2years** from date of inclusion of name in databank
- ◆ Membership renewed within 30 days from date of expiry
- ◆ For getting name included in databank apply in Form DIR-1
- ◆ Score of atleast 50% required to pass the test

# Process of Registration

- ◇ 1. Log in to MCA website [mca.gov.in](http://mca.gov.in) and insert your MCA credentials;
- ◇ 2. Go to MCA services and click on ID databank service- Individual registration;
- ◇ **3. Enter your DIN/Pan number;**
- ◇ 4. Send OTP to your mobile number;
- ◇ 5. After entering OTP, you will receive your ID and password;
- ◇ 6. Go to [independentdirectorsdatabank.in](http://independentdirectorsdatabank.in) and login with the id and password received in your mobile number;
- ◇ 7. Fill up all the mandatory details and click on submit;
- ◇ 8. Pay the prescribed fees. A) Rs 5000 for 1 year b) Rs 25,000 for lifetime



There are over 40 eLearning modules available on the IICA portal as part of their learning management system accessible only to those who register on the ID database. The modules are divided into two parts,

- 📖 Board essentials (25 modules)
- 📖 Board practice (17 modules)

Each have a duration of at least 30 minutes and at most 55 minutes. There is approximately 33 hours of online materials.

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Total marks  
**100**

Total no. of MCQs  
**50**

Total test duration  
**75 Minutes**

Marks assigned to each question

**2 Marks**

Average time allotted to each question

**1.5 Minutes**

### Break-up of questions

#### Board Essential

25 MCQs

#### Nature of questions

Direct

#### Board Practice

25 MCQs

#### Nature of questions

Scenario Based

# Tips to clear test



Mock Tests

23 Questions : 20 Mins.  
Area wise analysis



**Ample Time 1.5 mins per  
question**



Subjects in the test:

Companies Law  
Securities Law  
Basic Accountancy  
Corporate Governance

# What is to be done once test is cleared?

- ◆ Annual Report on Capacity Building of Independent Director [2021]
- ◆ Institute within 60 days from end of every financial year send annual report to every individual in the data bank and to every company in which such individual is appointed as an independent director

IDDB Registration Number:

Subscription (1 yr/5 yr/Lifetime):

Membership Validity:

Online Self-Assessment Proficiency Test Status (N.A if exempted):

**A. Participation during the Financial Year \_\_\_\_\_**

E-Learning Modules		Other Training Programs/ Courses		Colloquium / Workshops / Events of IDDB	
No. of modules released by the institute during the FY	No. of modules completed by the reportee	No. of courses organized by the institute during the FY	No. of courses attended by the reportee	No. of events organized by the institute during the FY	No. of events attended by the reportee

**B. Total Participation**

E-Learning Modules		Other Training Programs/ Courses		Colloquium / Workshops / Events of IDDB	
No. of modules released by the institute till date	No. of modules completed by the reportee	No. of courses organized by the institute till date	No. of courses attended by the reportee	No. of events organized by the institute till date	No. of events attended by the reportee

# Not cleared Test within prescribed time? 2022



Removed from databank apply for restoration

Fee of Rs 1,000

Separate Restored category for 1 year

To pass online proficiency test within that period

# Duties of Independent Directors



Regularly update & refresh skills, knowledge with the Company



Seek opinion of outside experts at expense of Company



**Strive to attend ALL board meetings**



Participate actively in committees



**Attend General Meeting**



Concerns to be recorded as minutes in meeting



Not to unfairly obstruct functioning of Board



**Attention to Related Party Transactions**



Confidentiality of information



भारतीय स्टेट बैंक  
State Bank of India

14324 - SPECIALISED INSTITUTIONAL BANKING KOLKATA  
SAMPIDDI BHAVAN, 4TH FLOOR, STRAND ROAD,  
KOLKATA 700011  
Tel. 33-22482941 IFS Code: SBIN0014324

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डॉ. या उनके अ

Dipali Maitra  
Five lac only.

जमा करें ₹ 5.00

VALID UPTO ₹ 50 LACS AT NON-HOME BRANCH

30439338404  
CURRENT A/C  
PREFIX:  
0523700049

Assistant Accounts Officer  
Kolkata Metro Rail  
Corporation Limited

ASSISTANT  
KOLKATA METRO RAIL  
Corp

30439338404  
7000024041 000054 29

Cheque bounced by company,  
MD/WTD and Independent  
director – Prosecution

Delhi High court ruling –  
Prakash Chand Vs State [19-12-  
2022 ]

Who is responsible  
for sending Notice  
for Board meeting?

Penalty u/s 454 for  
2 days delay

M/s WM Global Technology  
Services India Private Limited,  
Bangalore November 2022

Directed the Company secretary to pay  
Rs 25,000 from his own source of funds

No penalty levied on the company

If payment not made by CS within 90  
days of receipt of order then fine of Rs  
1,00,000 and imprisonment of 6 months

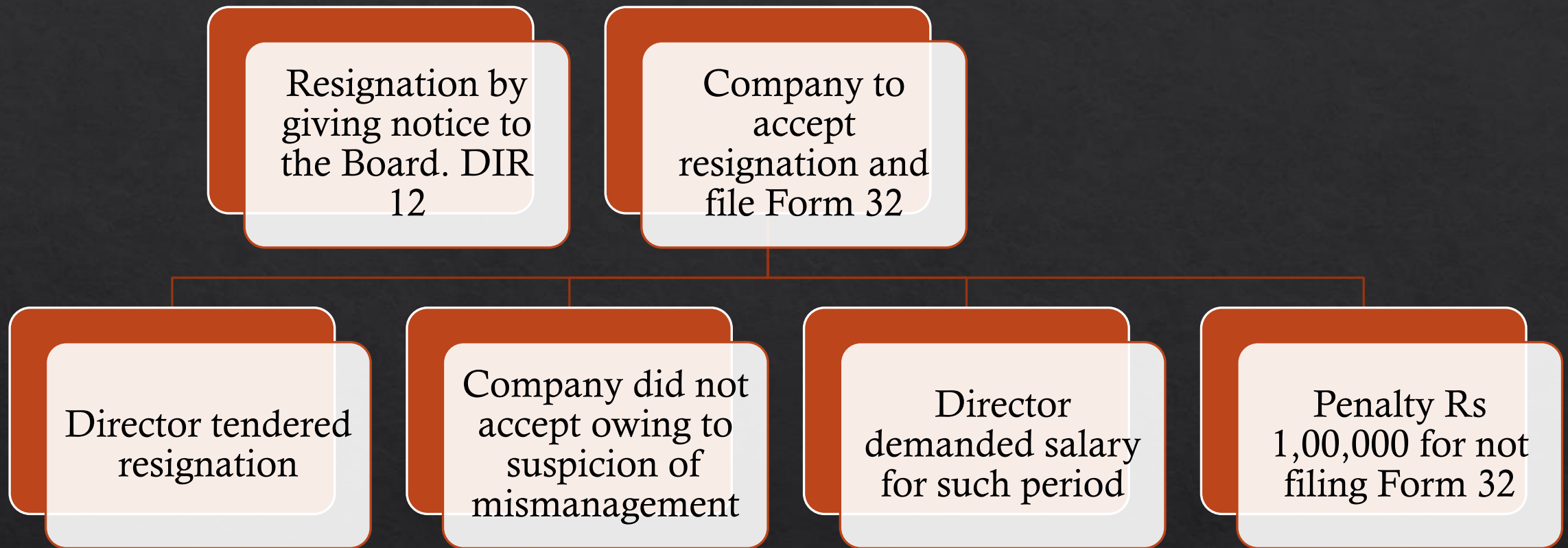


# Vacation of office & Removal

## [Sec 167 -168]



- ◇ Disqualifications
- ◇ Absents from **ALL** meetings of the board of directors held during period of 12 months
- ◇ Fails to **disclose interest** in a contract or arrangement
- ◇ Disqualified by order of **court/tribunal**
- ◇ Convicted of offence involving moral turpitude or imprisonment for 6 months
- ◇ Cease to hold office in holding, subsidiary or associate by virtue of which he was appointed
- ◇ **Removal** by Company through special notice for resolution
- ◇ Ordinary resolution. Vacancy to be filled within 180 days



Kamal Kumar Gupta vs Indus Marine P Ltd -  
Resignation cannot be refused owing to mismanagement. Penalty to be paid by company and to file Form 32 and take legal remedy for mismanagement against director

# Liability of Directors



- ◆ Officer in default [WTD, KMP, BOD and all directors]
- ◆ Liability of ID and NED limited to acts occurred with his knowledge / consent except for Fraud
- ◆ Negligence by director
- ◆ **Personally held liable**
  - ◆ Enter into contract in own name
  - ◆ Contract on behalf of Company, fail to use Ltd or Pvt Ltd
  - ◆ When exceed powers bestowed under act
  - ◆ Liability for Mis statement in prospectus (Sec 35)
  - ◆ Failure to repay deposit and proved that deposit is accepted with intent to defraud (Sec 75)
  - ◆ Business carried out with intent to defraud (Sec 339)



## Penal Provisions

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Penalty Companies Act Rs  
50,000 to Rs 5,00,000

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Penalty SCRA (Securities  
contract regulation Act)  
Imprisonment upto 10 years  
and fine of Rs 25 crores

# Penal Provisions

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Every officer of the Company whose duty is to give **notice** under this provisions and who fails to do so shall be liable to a penalty of

**Rs.25, 000.**

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If any **default** is made in complying with the provisions of the act In respect of **Board Meeting**, the Company shall be liable to a penalty of **Rs.25, 000** and every officer of the company who is in default shall be liable to a penalty of **Rs.5, 000.**

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If a person is found guilty of **tampering the minutes** of the proceedings of the meeting, he shall be punishable with imprisonment for a term which may exceed to **2 years** and with fine which shall not be less than **Rs.25, 000** but which may extend to **Rs.1, 00,000.**

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If a director of the Company contravenes the provisions of **Disclosure of Interest** by director then he shall be punishable with imprisonment for a term may extend **1 year** or fine which shall not be less than **Rs.50, 000** but may extend to **Rs.1, 00,000** or both.



## DECRIMINALISATION OF OFFENCES

- ◇ **Number of directorship** :Rs 5000 to **Rs 2000** with maximum limit of Rs 2,00,000
- ◇ **Vacation of office of director** : Imprisonment removed. Only penalty of Rs 5,00,000
- ◇ **Other Offence** : Rs 5,00,000 to Rs 3,00,000 for company & Rs 1,00,000 Officer in default
- ◇ **Nomination & Remuneration committee** : Imprisonment removed
- ◇ **Disclosure of Interest** : Imprisonment removed. Penalty 1 lakh
- ◇ **Related Party Contracts** : Imprisonment removed. Penalty increased 5 lakhs to 25 lakhs

# SECTIONS TO TAKE NOTE



Section 184 :  
Disclosure of  
interest



Section 185 :  
Loans to Director



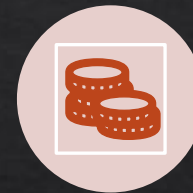
Section 186 : Loan  
and investment by  
Company



Section 188 :  
Related party  
transactions



Section 191: Loss  
of office



Section 192 : Non  
cash transactions



Regulation 17 of  
LODR



WOMAN DIRECTOR



# APPOINTMENT

a) LISTED COMPANY &

b) PUBLIC COMPANY

**Paid up capital > Rs 100  
crores, or**

**Turnover > Rs 300 crores**

SEBI (LODR) REGULATIONS,  
2015 : Independent Woman  
Director

- ◆ Top 500 Listed companies – 1  
April 2019
- ◆ Top 1000 Listed companies – 1  
April 2020

## LODR is changing! Are you ready?

*Dear Top 500 Listed Entity\*,*

*As per SEBI's latest LODR amendments, have you considered this NEW requirement*



### Regulation Proviso 17 (1) (a)

*Appoint at least one independent  
woman director.*

**To be compliant by 1st April, 2019**

*\*determined on the basis of market capitalisation, as at the end of the 31st March 2019*



# ANY QUESTIONS??

Divya Abhishek - 9884901199

**Chairperson, Southern India Regional Council of The Institute of Cost**

**Accountants of India ( SIRC of ICMAI)**

*B.COM., MBA, LLB, ACMA, ACS, FCA, Dip IFR(ACCA), ADIT (CIOT)*