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Shareholder Activism as a Tool of Corporate Governance in India: A Study under the Companies Act, 2013

Ms. Priya Tyagi[1], Ms. Sheetal Sharma[2], Ms. S Annu[3], Mr. Saurav Kumar[4]

[1]Assistant Professor, Royal College of Law, Ghaziabad.
[2]Assistant Professor, Innovative College of Law, Greater Noida.
[3]LL.M. Research Scholar, Himachal Pradesh National Law University, Shimla.
[4]B.A.LL.B., Jigyasa University, Dehradun.

Abstract
Corporate governance in India has witnessed a paradigm shift with the enactment of the Companies Act, 2013, which has significantly strengthened the legal framework for shareholder activism. This research paper examines shareholder activism as a tool of corporate governance in India, analyzing the statutory provisions, mechanisms, and judicial interpretations that empower shareholders to influence corporate decision-making. The study explores various instruments of shareholder activism including electronic voting, class action suits, proxy advisory firms, appointment of independent directors, and special protections for minority shareholders. Through an analysis of recent case law and regulatory developments, this paper demonstrates that shareholder activism has emerged as a crucial mechanism for ensuring transparency, accountability, and ethical conduct in Indian companies. However, challenges remain in the form of procedural complexities, limited awareness among retail investors, and the need for stronger enforcement mechanisms. The paper concludes with recommendations for enhancing the effectiveness of shareholder activism in India's evolving corporate landscape.

Keywords: Shareholder activism, Corporate governance, Companies Act 2013, Minority shareholders, Class action suits, Proxy advisory firms, Independent directors

1.0 Introduction

Corporate governance encompasses the systems, principles, and processes by which companies are directed and controlled. It defines the distribution of rights and responsibilities among different participants in the corporation, including the board of directors, managers, shareholders, and other stakeholders. The quality of corporate governance has direct implications for economic efficiency, investment climate, and overall market confidence[1].

Shareholder activism represents a significant evolution in corporate governance philosophy, marking a departure from the traditional passive role of shareholders. It refers to the proactive efforts undertaken by shareholders to influence corporate behavior, strategic decisions, and governance practices[2]. Shareholders, as the ultimate owners of a company, possess both the incentive and the right to ensure that

their investments are managed prudently and that corporate decisions align with their interests and broader stakeholder welfare.

The enactment of the Companies Act, 2013 (hereinafter referred to as "the Act") marked a watershed moment in India's corporate governance landscape. The Act replaced the Companies Act, 1956, and introduced comprehensive reforms aimed at enhancing shareholder rights, promoting transparency, and strengthening accountability mechanisms. The legislative intent was clear: to empower shareholders, particularly minority shareholders, and to create an environment conducive to active shareholder participation in corporate governance[3].

India's corporate ecosystem has traditionally been characterized by concentrated ownership structures, with promoters and controlling shareholders exercising dominant influence over corporate affairs. This concentration of power often resulted in information asymmetries, related-party transactions favoring promoters, and limited voice for minority shareholders[4]. The Companies Act, 2013 seeks to address these imbalances by providing shareholders with enhanced rights, effective remedies, and institutional mechanisms to hold management accountable.

1.1 Rationale for Shareholder Activism

The rationale for encouraging shareholder activism in India stems from several factors. First, the growing participation of retail investors in equity markets necessitates stronger protection mechanisms and meaningful participation rights. As of 2026, millions of Indian retail investors hold equity shares, and their collective voice deserves representation in corporate decision-making[5]. Second, the increasing presence of institutional investors, both domestic and foreign, has created a more sophisticated shareholder base that demands higher standards of corporate governance. Third, several high-profile corporate governance failures and scandals have underscored the need for active shareholder oversight to prevent fraud, mismanagement, and oppression of minority interests.

1.2 Objectives of the Study

This research paper aims to:

1. Examine the statutory framework for shareholder activism under the Companies Act, 2013
2. Analyze the various mechanisms available to shareholders for influencing corporate governance
3. Evaluate the role of institutional frameworks such as SEBI regulations and the National Company Law Tribunal
4. Identify challenges and limitations in the current regime
5. Propose recommendations for strengthening shareholder activism in India

1.3 Scope and Methodology

This study focuses specifically on shareholder activism in the context of the Companies Act, 2013, and related regulations promulgated by the Securities and Exchange Board of India (SEBI). The research employs a doctrinal methodology, analyzing statutory provisions, case law, and scholarly literature. The paper also incorporates comparative insights where relevant to contextualize India's approach within the broader global discourse on shareholder activism.

2.0 Defining Shareholder Activism

Shareholder activism can be defined as a set of proactive efforts on the part of shareholders to change firm behavior or governance rules[6]. It encompasses a wide spectrum of activities ranging from informal dialogue with management to formal mechanisms such as requisitioning general meetings, proposing resolutions, voting on key matters, and initiating legal proceedings against the company or its directors.

Activism may be driven by various motivations. Economic activists seek to maximize shareholder value through improved corporate performance, strategic changes, or capital allocation decisions. Social activists advocate for corporate social responsibility, environmental sustainability, and ethical business practices. Governance activists focus on improving board composition, executive compensation, disclosure practices, and internal controls[7].

2.1 Agency Theory and Shareholder Rights

The theoretical foundation of shareholder activism lies in agency theory, which addresses the principal-agent problem inherent in the separation of ownership and control in modern corporations[8]. Shareholders (principals) delegate decision-making authority to directors and managers (agents) who may not always act in the best interests of shareholders. This divergence of interests can lead to agency costs, including monitoring costs, bonding costs, and residual losses.

Shareholder activism serves as a monitoring mechanism to align the interests of agents with those of principals. By exercising their rights to vote, question management decisions, and hold directors accountable, shareholders reduce information asymmetry and discipline management behavior. The Companies Act, 2013 recognizes this agency problem and provides shareholders with enhanced rights and remedies to address it.

2.3 Stakeholder Theory Perspective

While agency theory emphasizes shareholder primacy, stakeholder theory adopts a broader perspective, recognizing that companies have obligations to multiple stakeholders including employees, creditors, suppliers, customers, and society at large[9]. The Companies Act, 2013 incorporates elements of stakeholder theory through provisions such as corporate social responsibility (Section 135), stakeholder relationship committees, and enhanced disclosure requirements.

Shareholder activism, when balanced with stakeholder interests, can contribute to sustainable corporate governance. Activist shareholders increasingly raise concerns about environmental, social, and governance (ESG) issues, pushing companies toward more responsible business practices that benefit all stakeholders in the long term.

3. Evolution of Shareholder Rights in India

3.1 Pre-2013 Regime

Prior to the enactment of the Companies Act, 2013, shareholder rights in India were governed primarily by the Companies Act, 1956. While the 1956 Act provided basic rights such as the right to receive dividends, inspect books, and vote at general meetings, it offered limited mechanisms for shareholder activism[10]. The remedies available to minority shareholders were primarily the doctrines of oppression and mismanagement under Sections 397-398 of the 1956 Act, but these provisions were procedurally complex and rarely invoked successfully.

The corporate governance landscape was further shaped by the principle established in *Foss v. Harbottle*, which prioritized majority rule and limited individual shareholder actions[11]. This principle, while preserving corporate autonomy, often left minority shareholders without effective recourse against oppressive conduct by controlling shareholders.

3.2 The Companies Act, 2013: A Paradigm Shift

The Companies Act, 2013 represents a comprehensive overhaul of India's company law framework. The Act was enacted after extensive deliberation and consultation, drawing upon international best practices

and the recommendations of expert committees. Several key provisions were specifically designed to enhance shareholder democracy and facilitate activism:

- Section 108: Electronic voting and participation in general meetings
- Section 151: Appointment of directors elected by small shareholders
- Sections 166-167: Codification of directors' duties and liabilities
- Sections 177-178: Mandatory audit committees and nomination and remuneration committees
- Sections 188-189: Regulation of related party transactions
- Sections 241-244: Enhanced remedies for oppression and mismanagement
- Section 245: Class action suits by shareholders
- Section 247: Investigation into company affairs

These provisions collectively empower shareholders to participate more actively in corporate governance and hold management accountable for their decisions[12].

3.3 SEBI Regulations Complementing the Act

The Securities and Exchange Board of India (SEBI) has played a complementary role in strengthening shareholder activism through various regulations applicable to listed companies. Key SEBI regulations include:

- SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015: These regulations mandate extensive disclosures, independent directors, board committees, and shareholder approval for material related party transactions
- SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011: These regulations govern disclosure of shareholding and voting rights, ensuring transparency in ownership structures
- SEBI (Prohibition of Insider Trading) Regulations, 2015: These regulations protect shareholders from unfair trading practices
- SEBI Circular on Proxy Advisory Firms (2020): This circular regulates proxy advisory firms that provide voting recommendations to institutional investors[13]

The synergy between the Companies Act, 2013 and SEBI regulations has created a robust framework for shareholder activism in India's listed company sector.

4.0 Mechanisms of Shareholder Activism under the Companies Act, 2013

4.1 Electronic Voting and Remote Participation

Section 108 of the Companies Act, 2013 mandates that companies provide electronic voting (e-voting) facilities to shareholders for resolutions proposed at general meetings[14]. This provision addresses a significant practical barrier to shareholder participation—the difficulty of physically attending general meetings, particularly for geographically dispersed shareholders.

E-voting enables shareholders to cast their votes remotely before the general meeting or during the meeting through electronic means. The provision also requires companies to provide video conferencing facilities at multiple locations across India, allowing shareholders to participate in deliberations without traveling to the registered office of the company.

The impact of e-voting on shareholder participation has been substantial. Retail shareholders, who previously faced logistical challenges in exercising their voting rights, can now conveniently vote from anywhere. This has resulted in higher voting turnouts and more representative outcomes in shareholder resolutions. Moreover, e-voting creates an auditable trail of voting records, enhancing transparency and reducing the possibility of manipulation.

4.2 Appointment of Independent Directors

The Companies Act, 2013 mandates the appointment of independent directors in certain classes of companies, with specified proportions based on whether the chairman is executive or non-executive[15]. Independent directors are expected to bring objectivity, expertise, and independence to board deliberations, safeguarding the interests of all shareholders, particularly minority shareholders.

Section 149(4) defines an independent director as one who does not have any material or pecuniary relationship with the company, its promoters, or management that could affect the director's independence of judgment. Section 149(8) specifies detailed criteria for independence, including restrictions on shareholding, employment relationships, and business dealings with the company.

Independent directors play a crucial role in monitoring management decisions, preventing conflicts of interest, and ensuring that corporate actions benefit all shareholders equitably. They are required to chair important board committees such as the audit committee and nomination and remuncement committee, thereby exercising oversight over critical governance functions[16].

The effectiveness of independent directors in promoting shareholder interests depends on their genuine independence, competence, and willingness to challenge management decisions. While the statutory framework is robust, practical challenges remain in ensuring that independent directors are truly independent in substance and not merely in form.

4.3 Small Shareholders' Director

Section 151 of the Companies Act, 2013 introduces an innovative provision requiring certain listed companies to appoint at least one director elected by small shareholders[17]. A "small shareholder" is defined as a shareholder holding shares of nominal value not exceeding Rs. 20,000 or such other sum as may be prescribed.

This provision recognizes that in companies with dispersed shareholding, small shareholders collectively hold significant equity but individually lack the voting power to influence board composition. By providing small shareholders with the right to elect a dedicated director, the Act ensures that their interests are represented at the board level.

The small shareholders' director is expected to voice concerns specific to retail investors, such as dividend policies, disclosure practices, and protection against dilution. This provision has symbolic and practical significance in democratizing corporate governance and giving retail investors a seat at the decision-making table.

4.4 Class Action Suits

Section 245 of the Companies Act, 2013 introduces the concept of class action suits, allowing shareholders to collectively initiate legal proceedings against the company, its board of directors, auditors, or other persons for fraudulent, unlawful, or wrongful acts[18]. This provision is modeled on similar mechanisms in jurisdictions such as the United States and represents a significant expansion of shareholder remedies in India.

A class action suit can be filed by shareholders individually or collectively holding at least 5% of the issued share capital or having at least 100 members. The application is made to the National Company Law Tribunal (NCLT), which has the discretion to allow or reject the claim based on prima facie evidence of wrongdoing.

The introduction of class action suits addresses the collective action problem inherent in shareholder activism. Individual shareholders, particularly minority shareholders, may be reluctant to initiate legal

proceedings due to the costs, risks, and time involved. By allowing shareholders to pool their resources and pursue claims collectively, Section 245 empowers them to challenge misconduct more effectively[19]. The landmark case of *Ankit Jain v. Jindal Poly Films* represents the first instance in India where minority shareholders came together as a class to file a lawsuit against a company and its board of directors under Section 245[20]. The case demonstrated the practical utility of this provision and set a precedent for future class actions. However, the procedural complexities and stringent requirements for filing class action suits remain a barrier to their widespread use.

5.0 Remedies for Oppression and Mismanagement

Sections 241-244 of the Companies Act, 2013 provide enhanced remedies for shareholders facing oppression or mismanagement by the company's management or controlling shareholders[21]. These provisions replace Sections 397-398 of the 1956 Act and introduce procedural improvements and expanded powers for the NCLT.

Section 241 defines oppression broadly to include acts that are burdensome, harsh, or wrongful to any member or members, or that prejudice the company's interests. Mismanagement includes acts that result in the company's affairs being conducted in a manner prejudicial to public interest or the interests of the company.

The NCLT is empowered under Section 242 to pass a wide range of orders to remedy oppression or mismanagement, including:

- Regulating the conduct of the company's affairs
- Requiring the company to refrain from acts or to do specific acts
- Removing any director or appointing new directors
- Ordering the purchase of shares of dissenting shareholders
- Ordering the company to pay damages or compensation
- Altering the company's memorandum or articles of association
- Winding up the company if just and equitable

The broad discretionary powers granted to the NCLT enable it to fashion remedies tailored to the specific circumstances of each case, ensuring that minority shareholders receive effective relief[22].

Recent judicial decisions have demonstrated the NCLT's willingness to intervene in cases of shareholder deadlock and oppression. In *Escientia Life Sciences v. Escientia Advanced Sciences (P) Ltd.*, the NCLT proposed a structured buy-out mechanism to resolve a shareholder deadlock, prioritizing minority shareholders' right to purchase the majority stake[23]. Similarly, in *Hormouz Phiroze Aderianwalla v. Del. Seatek India (P) Ltd.*, the NCLT ordered a buy-out in a situation of equal shareholding deadlock, recognizing that such deadlocks impair the company's operations and harm all shareholders[24].

The Supreme Court's decision in *Tata Consultancy Services Ltd. v. Cyrus Investments (P) Ltd.* is a landmark judgment in the context of oppression and mismanagement[25]. The case arose from the removal of Cyrus Mistry as Chairman of Tata Sons, with Mistry's investment firms alleging oppression by the majority Tata Group shareholders. While the Supreme Court ultimately ruled in favor of Tata Sons, the judgment provided significant guidance on the balance between majority rule and minority protection. The Court emphasized that oppression must be assessed objectively, considering the legitimate expectations of minority shareholders, the company's articles of association, and the broader corporate governance framework.

6.0 Regulation of Related Party Transactions

Sections 188 and 189 of the Companies Act, 2013 impose stringent regulations on related party transactions (RPTs), requiring board approval and, in certain cases, shareholder approval through special resolution[26]. RPTs pose inherent conflicts of interest, as controlling shareholders or directors may enter into transactions that benefit themselves at the expense of minority shareholders or the company.

Section 188 mandates that specified related party transactions require prior approval of the board, and if the transaction exceeds prescribed thresholds, it must be approved by shareholders through special resolution. The Act prohibits related parties from voting on such resolutions, ensuring that the approval is granted by disinterested shareholders.

The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 impose additional requirements for listed companies, including approval by a majority of minority shareholders for material RPTs. These provisions collectively create a robust framework for monitoring and controlling related party transactions, reducing the risk of self-dealing by controlling shareholders[27].

7.0 Disclosure and Transparency Requirements

Transparency is a cornerstone of effective corporate governance and shareholder activism. The Companies Act, 2013 and SEBI regulations mandate extensive disclosure requirements, enabling shareholders to make informed decisions and hold management accountable.

Key disclosure requirements include:

- Annual reports containing financial statements, board reports, and disclosures on corporate governance
- Disclosure of shareholding patterns, including promoter holdings and changes in ownership
- Disclosure of remuneration of directors and key managerial personnel
- Disclosure of related party transactions
- Disclosure of material events and price-sensitive information
- Disclosure of voting results on resolutions at general meetings

These disclosures provide shareholders with the information necessary to assess the company's performance, governance practices, and compliance with legal requirements. Enhanced disclosure also facilitates shareholder activism by enabling investors to identify potential issues and take corrective action through voting or legal remedies[28].

8.0 Role of Proxy Advisory Firms in Shareholder Activism

8.1 Emergence of Proxy Advisory Firms in India

Proxy advisory firms have emerged as influential intermediaries in India's corporate governance ecosystem, providing voting recommendations and governance analysis to institutional investors[29]. These firms analyze shareholder meeting proposals and advise investors on how to vote on resolutions concerning executive compensation, board elections, related party transactions, mergers and acquisitions, and other governance matters.

The emergence of proxy advisory firms in India was catalyzed by SEBI's introduction of the Stewardship Code in 2019, which requires institutional investors such as mutual funds and insurance companies to adopt stewardship policies and actively engage with investee companies[30]. The Stewardship Code mandates that institutional investors vote on all resolutions and disclose their voting rationale, creating demand for proxy advisory services.

Major proxy advisory firms operating in India include both domestic firms and global players such as Institutional Shareholder Services (ISS) and Glass Lewis. These firms publish governance frameworks outlining their voting policies and conduct company-specific analysis to formulate recommendations on each resolution[31].

8.2 Impact on Shareholder Voting and Corporate Governance

Proxy advisory firms have significantly influenced shareholder voting outcomes and corporate governance practices in India. Institutional investors, who collectively hold approximately one-third of India's listed equity, increasingly rely on proxy advisory recommendations when casting their votes[32]. A negative recommendation from a prominent proxy advisory firm can sway institutional sentiment and result in rejection of management proposals.

Proxy advisors emphasize principles such as fairness, transparency, minority protection, and alignment of executive compensation with performance. They often adopt standards that exceed legal compliance requirements, pushing companies toward higher governance maturity. For example, proxy advisory firms may recommend voting against related party transactions that are technically compliant but lack adequate disclosure or independent valuation[33].

The influence of proxy advisory firms has prompted companies to engage proactively with these firms, providing detailed information and rationale for proposals well in advance of shareholder meetings. Investor relations teams now treat proxy advisory engagement as a strategic priority, recognizing that proxy recommendations can significantly impact shareholder support[34].

8.3 Challenges and Criticisms

Despite their contributions to shareholder activism, proxy advisory firms face several challenges and criticisms:

- **Conflict of Interest:** Proxy advisory firms often provide both advisory and consulting services to companies, raising concerns about potential conflicts of interest. A firm advising investors on how to vote may also provide governance consulting to the same company, potentially compromising its independence[35].
- **Robo-Voting:** Critics argue that institutional investors may blindly follow proxy advisory recommendations without conducting independent analysis, a phenomenon known as "robo-voting." This undermines the objective of informed shareholder participation and concentrates excessive power in the hands of proxy advisors[36].
- **Limited Resources and Awareness:** Proxy advisory firms in India face resource constraints and limited awareness among retail investors, who constitute a significant portion of the shareholder base. Most proxy advisory services are tailored to institutional clients, leaving retail investors without similar guidance[37].
- **Standardized Approach:** Proxy advisory firms often apply standardized voting policies across companies without fully accounting for company-specific circumstances, industry dynamics, or strategic context. This can result in recommendations that do not align with the long-term interests of the company or its shareholders[38].

SEBI has recognized these concerns and issued a circular in 2020 regulating proxy advisory firms, requiring them to register with SEBI, disclose potential conflicts of interest, maintain confidentiality of information, and establish grievance redressal mechanisms[39]. These regulations aim to enhance the credibility and accountability of proxy advisory firms while preserving their role in promoting shareholder activism.

9.0 Institutional Investors and Stewardship

9.1 The Stewardship Code

The SEBI Stewardship Code for institutional investors, introduced in 2019, represents a significant step toward promoting active ownership and responsible investment practices[40]. The Code outlines principles of stewardship that institutional investors should adopt, including:

- Formulating and disclosing a stewardship policy
- Monitoring investee companies and engaging with their management
- Exercising voting rights diligently and disclosing voting decisions
- Collaborating with other institutional investors on governance issues
- Managing conflicts of interest
- Reporting on stewardship activities annually

The Stewardship Code encourages institutional investors to move beyond passive investment strategies and adopt an active ownership mindset. By engaging with companies, voting responsibly, and holding management accountable, institutional investors can drive improvements in corporate governance and long-term value creation[41].

9.2 Role of Mutual Funds, Pension Funds, and Insurance Companies

Institutional investors such as mutual funds, pension funds, and insurance companies hold significant stakes in Indian listed companies and possess considerable voting power. Their participation in shareholder activism is critical for ensuring that corporate governance standards are upheld and that management decisions serve the interests of all shareholders.

Mutual funds, in particular, have been at the forefront of shareholder activism in India. SEBI regulations require mutual funds to vote on all resolutions at shareholder meetings and disclose their voting decisions publicly. This transparency enhances accountability and enables fund beneficiaries to assess whether fund managers are voting in their best interests[42].

Pension funds and insurance companies, managing long-term savings and retirement funds, have a fiduciary duty to maximize returns for their beneficiaries. Active engagement with investee companies and responsible voting practices align with this fiduciary obligation. However, domestic institutional investors in India have historically exhibited a passive approach, refraining from challenging management decisions. The Stewardship Code seeks to change this culture and encourage more active participation[43].

9.3 Challenges in Institutional Activism

Despite the regulatory framework promoting institutional activism, several challenges persist:

- **Short-term Investment Horizons:** Some institutional investors prioritize short-term performance metrics, which may discourage long-term engagement with companies on governance issues.
- **Resource Constraints:** Conducting thorough analysis of governance practices and engaging with companies requires significant resources, which smaller institutional investors may lack.
- **Conflicts of Interest:** Institutional investors may have business relationships with companies in their portfolios (e.g., managing provident funds or providing insurance services), creating potential conflicts of interest that inhibit activism.
- **Cultural Norms:** The traditional culture of deference to promoters and management in India may discourage institutional investors from publicly challenging corporate decisions[44].

Addressing these challenges requires continued regulatory emphasis on stewardship, capacity building for institutional investors, and cultural shifts toward recognizing activism as a fiduciary responsibility rather than adversarial behavior.

9.4 Judicial Interpretation and Case Law

A. Landmark Judgments on Shareholder Rights

Judicial interpretation has played a vital role in shaping the contours of shareholder activism in India. Several landmark judgments have clarified the scope of shareholder rights, the balance between majority rule and minority protection, and the remedies available for corporate governance failures.

a. Tata Consultancy Services Ltd. v. Cyrus Investments (P) Ltd. (2021)

The Supreme Court's decision in *Tata Consultancy Services Ltd. v. Cyrus Investments (P) Ltd.* is a seminal judgment on oppression and mismanagement under the Companies Act, 2013[45]. The case arose from the removal of Cyrus Mistry as Chairman of Tata Sons, with Mistry's investment firms alleging that the removal was oppressive and that Tata Sons was mismanaged by the Tata Group's controlling shareholders. The Supreme Court held that the test for oppression is whether the conduct complained of is burdensome, harsh, or wrongful to the complainant. The Court emphasized that minority shareholders' legitimate expectations must be considered, but these expectations must be reasonable and consistent with the company's articles of association and the understanding among shareholders at the time of investment.

The Court ruled in favor of Tata Sons, holding that the removal of Mistry was not oppressive as it was carried out in accordance with the company's articles and was justified by governance concerns and loss of confidence. The judgment underscored that courts should not interfere with business decisions taken by the board in good faith unless there is evidence of fraud, illegality, or violation of shareholders' rights[46].

This case reaffirmed the principle of majority rule while providing important guidance on the limits of that principle. It clarified that oppression claims require substantive evidence of wrongful conduct and that the NCLT must balance the interests of all stakeholders, including the company itself.

b. Escientia Life Sciences v. Escientia Advanced Sciences (P) Ltd. (2025)

In *Escientia Life Sciences v. Escientia Advanced Sciences (P) Ltd.*, the NCLT addressed a shareholder deadlock between majority and minority shareholders that had resulted in a complete breakdown of corporate governance[47]. The Tribunal proposed a structured buy-out mechanism, giving minority shareholders the first right to purchase the majority stake, followed by the majority's right to buy out the minority if the first option was declined. If neither party opted for a buy-out, the Tribunal indicated that it would wind up the company.

This judgment demonstrates the NCLT's willingness to craft flexible remedies tailored to specific circumstances. By prioritizing the continuation of the business and providing an exit mechanism for dissenting shareholders, the Tribunal balanced the interests of all parties while preventing the company's dissolution[48].

c. Ankit Jain v. Jindal Poly Films (Date Unknown)

Ankit Jain v. Jindal Poly Films marked the first instance in India where minority shareholders utilized Section 245 to file a class action suit against a company and its board of directors[49]. Although details of the case outcome are limited in available sources, the filing itself was significant in demonstrating the practical utility of class action mechanisms and encouraging other shareholders to pursue collective remedies.

d. Manu Rishi Gupta v. ICICI Securities Ltd. & Ors. (2025)

The Supreme Court's decision in *Manu Rishi Gupta v. ICICI Securities Ltd. & Ors.* addressed the issue of fair exit mechanisms for minority shareholders[50]. The case highlighted the challenges faced by minority

shareholders in exiting their investments when controlling shareholders acquire dominant positions or when the company undergoes restructuring.

The Court's ruling emphasized the importance of providing minority shareholders with fair valuation and exit opportunities, particularly in situations where their rights are likely to be prejudiced by corporate actions. This judgment contributes to the jurisprudence on minority protection and fair treatment principles[51].

B. Evolution of Judicial Approach

Indian courts have evolved in their approach to shareholder disputes, moving from strict adherence to the majority rule principle (*Foss v. Harbottle*) toward a more balanced approach that recognizes minority rights and the need for judicial intervention in cases of oppression and mismanagement[52].

The NCLT and NCLAT have demonstrated increasing sophistication in analyzing corporate governance disputes, considering factors such as:

- The company's articles of association and shareholders' agreements
- Legitimate expectations of shareholders at the time of investment
- Conduct of both majority and minority shareholders
- Impact of corporate actions on the company's operations and stakeholders
- Proportionality of remedies to the harm suffered

This nuanced approach ensures that remedies are tailored to the specific facts of each case, promoting justice while respecting the commercial autonomy of companies[53].

9.5 Challenges to Effective Shareholder Activism

a. Concentrated Ownership Structures

India's corporate landscape is characterized by concentrated ownership, with promoter-controlled companies dominating the market. In such structures, minority shareholders face significant challenges in influencing corporate decisions due to the voting power wielded by controlling shareholders[54]. Even when minority shareholders collectively hold substantial equity, their fragmented holdings and coordination challenges limit their effectiveness.

b. Procedural Complexities

The procedural requirements for invoking shareholder remedies under the Companies Act, 2013 can be complex and burdensome. For instance, Section 245 requires that class action suits be filed by shareholders holding at least 5% of issued share capital or comprising at least 100 members[55]. These thresholds may be difficult for retail investors to meet, particularly in large companies with widely dispersed shareholding. Similarly, Section 244 imposes a requirement that applicants seeking remedies for oppression and mismanagement must hold at least 10% of issued share capital or represent at least 100 members or one-tenth of the total number of members, whichever is less. While Section 244(2) allows the NCLT to waive these requirements in certain circumstances, the procedural hurdles remain significant [56].

c. Limited Awareness and Financial Literacy

Many retail shareholders in India lack awareness of their rights under the Companies Act, 2013 and the mechanisms available for shareholder activism. Limited financial literacy, coupled with the complexity of legal procedures, discourages retail investors from actively participating in corporate governance or challenging management decisions [57].

d. Cost and Time Involved in Litigation

Pursuing legal remedies through the NCLT involves substantial costs, including legal fees, expert witness fees, and administrative expenses. The time required to resolve disputes can extend over several years,

during which shareholders may suffer continued harm or lose confidence in the investment. These barriers deter shareholders, particularly minority shareholders with limited resources, from invoking their rights [58].

e. Enforcement Challenges

Even when shareholders obtain favorable judgments from the NCLT, enforcement of those orders can be challenging. Companies or directors may delay compliance, appeal to higher forums, or engage in strategic maneuvers to avoid implementing tribunal orders. Strengthening enforcement mechanisms is essential to ensure that shareholder remedies are not merely symbolic[59].

f. Cultural and Institutional Factors

India's corporate culture has traditionally emphasized promoter control and deference to management. This cultural norm can discourage shareholders from challenging decisions or raising governance concerns, as activism may be perceived as adversarial or disloyal. Changing this mindset requires sustained efforts to promote the concept of responsible ownership and the legitimacy of shareholder activism [60].

10.0 Comparative Perspectives: Global Best Practices

a. United States

The United States has a well-established tradition of shareholder activism, facilitated by a robust legal framework, active institutional investors, and influential proxy advisory firms. Shareholders in the U.S. can submit shareholder proposals on governance matters, which are voted upon at annual meetings. Rule 14a-8 of the Securities Exchange Act governs this process, allowing shareholders holding at least $2,000 or 1% of shares for one year to submit proposals[61].

Activist hedge funds in the U.S. play a prominent role in pushing for corporate changes, including board representation, strategic shifts, and capital restructuring. The prevalence of dispersed ownership and strong minority protections facilitate activism. India can draw lessons from the U.S. experience in promoting shareholder proposals, enhancing proxy access, and fostering a culture of engagement.

b. United Kingdom

The United Kingdom's corporate governance framework emphasizes stewardship and long-term value creation. The UK Stewardship Code, first introduced in 2010 and revised in 2020, sets expectations for institutional investors to engage with companies and exercise their ownership responsibilities[62]. The Code has influenced India's own Stewardship Code and provides a model for promoting institutional activism.

The UK also employs a "comply or explain" approach to corporate governance, allowing companies flexibility in implementing governance practices while requiring disclosure and explanation of deviations from best practices. This approach balances prescriptive regulation with corporate autonomy[63].

c. European Union

The European Union has introduced the Shareholder Rights Directive (SRD II), which strengthens shareholder rights and promotes long-term engagement between companies and investors[64]. Key provisions include requirements for transparency in institutional investment and asset management, say-on-pay votes on director remuneration, and facilitation of shareholder identification and cross-border voting.

India can benefit from the EU's emphasis on transparency, shareholder identification mechanisms, and regulation of proxy advisors to enhance the effectiveness of shareholder activism.

11.0 Recommendations for Strengthening Shareholder Activism

Based on the analysis of the statutory framework, judicial interpretation, challenges, and comparative perspectives, the following recommendations are proposed to strengthen shareholder activism in India:

a. Simplification of Procedural Requirements

The thresholds and procedural requirements for invoking shareholder remedies under Sections 245 and 241 should be reviewed and simplified to make them more accessible to retail shareholders. Consideration should be given to reducing the shareholding thresholds for class action suits or allowing shareholder associations to aggregate holdings for meeting the requirements[65].

b. Enhancing Financial Literacy and Awareness

Government agencies, SEBI, stock exchanges, and investor associations should collaborate to conduct awareness campaigns and educational programs on shareholder rights and corporate governance. Retail investors need to be informed about their voting rights, electronic voting facilities, and the mechanisms available for redressing grievances[66].

c. Strengthening Enforcement Mechanisms

The NCLT and NCLAT should be adequately resourced to handle the increasing volume of corporate disputes efficiently. Timelines for disposal of cases should be strictly enforced, and mechanisms for expeditious enforcement of tribunal orders should be established. Penalties for non-compliance with tribunal orders should be substantial to deter dilatory tactics[67].

d. Promoting Institutional Activism

Institutional investors should be encouraged to adopt more active ownership practices through continued emphasis on stewardship. SEBI could consider mandating periodic disclosures of engagement activities, voting rationales, and outcomes of stewardship initiatives. Institutional investors should also collaborate on governance issues of common concern to amplify their impact[68].

e. Regulation of Proxy Advisory Firms

While SEBI has introduced regulations for proxy advisory firms, ongoing monitoring and refinement are necessary to address conflicts of interest, ensure quality of research, and promote independence. Proxy advisory firms should be required to disclose their methodologies, engage with companies before issuing recommendations, and provide companies with an opportunity to respond[69].

F. Facilitating Shareholder Proposals

Consideration should be given to introducing a framework for shareholder proposals on governance matters, similar to Rule 14a-8 in the United States. Allowing shareholders to propose resolutions on topics such as board composition, environmental sustainability, and social responsibility would enhance shareholder voice and promote accountability[70].

XI. Conclusion

Shareholder activism has emerged as a vital tool of corporate governance in India, empowered by the comprehensive reforms introduced by the Companies Act, 2013 and complemented by SEBI regulations and judicial interpretations. The Act's provisions on electronic voting, class action suits, independent directors, small shareholders' directors, and remedies for oppression and mismanagement collectively enhance shareholder participation and accountability.

The rise of proxy advisory firms and the introduction of the Stewardship Code have further catalyzed institutional investor activism, pushing companies toward higher governance standards. Landmark judicial

decisions have clarified the contours of shareholder rights and provided remedies for oppressed minorities, demonstrating the judiciary's commitment to balancing majority rule with minority protection.

However, significant challenges remain. Concentrated ownership structures, procedural complexities, limited awareness among retail investors, and enforcement difficulties continue to impede effective shareholder activism. Addressing these challenges requires a multi-faceted approach involving legislative reforms, capacity building, cultural shifts, and strengthened institutional mechanisms.

Shareholder activism, when exercised responsibly and constructively, benefits not only shareholders but also companies and the broader economy. Active shareholders serve as monitors of management, reducing agency costs and promoting efficient capital allocation. They drive improvements in corporate governance, transparency, and accountability, contributing to long-term value creation and sustainable business practices.

As India's capital markets continue to grow and attract both domestic and foreign investment, the importance of robust corporate governance and effective shareholder activism will only increase. The Companies Act, 2013 provides a solid foundation, but continuous evolution and adaptation to emerging challenges are essential. By learning from global best practices and tailoring solutions to India's unique corporate landscape, policymakers, regulators, and market participants can foster an environment where shareholder activism thrives, ensuring that corporate governance serves the interests of all stakeholders.

XII. Suggestions

1. **Legislative Reforms:** The Companies Act, 2013 should be amended to simplify procedural requirements for class action suits and oppression remedies, making these mechanisms more accessible to retail shareholders. Lower shareholding thresholds and alternative aggregation mechanisms should be considered.
2. **Enhanced Disclosure Requirements:** SEBI should mandate enhanced disclosures on related party transactions, promoter dealings, and corporate governance practices. Greater transparency will enable shareholders to make informed decisions and identify potential governance issues.
3. **Capacity Building for NCLT:** The National Company Law Tribunal should be provided with adequate resources, including additional benches, trained personnel, and technological infrastructure, to handle corporate disputes efficiently and reduce case backlogs.
4. **Shareholder Education Programs:** A comprehensive shareholder education initiative should be launched, targeting retail investors with information on their rights, voting mechanisms, and avenues for redressal. This could include workshops, online resources, and partnerships with investor associations.
5. **Strengthening Stewardship:** SEBI should continue to monitor compliance with the Stewardship Code and consider making certain stewardship practices mandatory for institutional investors. Periodic reporting on engagement activities and voting decisions should be required.
6. **Proxy Advisory Firm Oversight:** SEBI should establish a more rigorous oversight framework for proxy advisory firms, including quality audits, conflict of interest disclosures, and accountability mechanisms. Standards for research quality and independence should be enforced.

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