

Recent times of corporate governance and its fraudulence in India

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Abstract

In today's corporate set-up there has been a lot of transformation witnessed globally. The advent of corporate governance in actuality has been identified to be a framework that develops relationship that determines the performance and direction. As corporate governance inclines over promotion of corporate fairness, accountability and transparency, there has been a lot of loopholes were hindering the proper functioning of firms. This paper discusses corporate governance and the underlying fraudulences that were witnessed in the recent times from Indian perspective. Through delving deeper into the subjective aspects on corporate governance from global scenario and narrowing the study primarily under the Indian context. The current corporate governance and its structural solidity pertaining with the functioning of corporate governance has been streamlined through various organizations and bodies which has taken greater efforts and still there has been certain areas that remain inadequacies and is lacking the morality of firepower and restoring confidence in the ability of building trust. The current scenario and approaches that were implemented from these organizational institutions has effectively curbed the unethical business transmission and fraudulence and has witnessed the steady momentum in the progression of acquiring ideal corporate goals. Under the present condition, the regulatory changes that were integrated and has taken substantial stability with major instances and proceedings has stressed firmly in reinforcement of the acts, thereby safeguarding the stake holders and corporate management from avoidance of unnecessary fraudulences.

Keywords: *corporate governance, Indian scenario, Fraudulence, corporate goals*

1. Introduction

Few eras ago Governance was merely a term seldom used by businessmen. Now, to run their organizations, almost every administrations follow governance with specific importance on its accountability, risk management and integrity (Stapledon, 1996). Initially, well recognized corporate governance embraces usual relationships

amongst company's stake holders and board of management and its securities holders.¹ Corporate governance also be responsible for the outline for achieving a company's goals, it involves almost each sphere of management, from action strategies to corporate revelation. Corporate governance likewise offers "the structure by means of which the goals and aims of the company are set and the means of achieving those aims and observing the performance are defined". In other word, "Corporate Governance is about promoting corporate accountability, fairness and transparency". Basically, these two factors were notable for highlighting the corporate governance in world. In the First place, the wave of financial catastrophe in 1998 in Brazil, Russia and most of the countries of Asia are get affected and destabilize seriously the economies of the global financial system. After that the rising corporate dishonors appeared in the United States and European countries because of the bad corporate governance experienced by the commercial men. Afterwards Satyam fraud, the corporate governance has gained lot of importance in India (Sharma, 2011). Features of the lawful and controlling atmosphere are essentially connected to corporate governance, and a huge form of research studies the relation between finance, law, and authority. This dodge was prompted for entrepreneurs to focus on the transparent, efficient and impeccable corporate governance in their companies for the better desired growth, Profitable and constancy (Jain, 2007).

"Additional, the quick pace of the globalization and liberalization compelled companies to have an effective corporate governance plan and to adopt improved standards of corporate governance to run their business. To decrease case of fraud, malpractices in companies and financial instability, both the policy makers and business managers tensed the significance of upgraded principles of the system of corporate governance. In international level, Union for Economic Co-operation and Development (hereinafter 'OECD') and World Bank nonstop

¹ Stijn Claessens and Burcin Yurtoglu, 'Corporate Governance and Development—an Update', (Global Corporate Governance Forum, 2012, Focus 10).

operated upon for superior corporate governance and adopted two principles to support the structure of companies. Likewise, in India there are numerous reforms taken over a number of various pathways from Security and Exchange Board of India (hereinafter 'SEBI') and the Ministry of Corporate Affairs (hereinafter 'MCA'), Government of India to expand the corporate governance. Recently, Government has passed the Companies Act, 2013 which is one of the steps to expand corporate governance in India. The Paper emphasis on the fresh improvement and emergence of new Companies Act, 2013 and the good practices incorporated in this Act. But before that it is the crucial to recognize Corporate Governance and its development (Sangmi, 2010).

2. Emerging Markets and the Importance of Corporate Governance

"Good corporate governance is extreme essential for the developing countries as well as developed countries to accomplish its economic goals. The emerging countries market known as 'emerging markets', wherever the markets are further defective and suffer from the superior informational shortages than markets in emergent countries (Madhubala, 2013). Bruner exactly thought that "the developing countries' developing markets are different from emergent markets in some regions such as, liquidity, accounting, volatility, transparency, corruption, transaction costs, governance, and taxes. The ruin of international ogres like Eronf, Worlcom, Tyco, AOL and monetary cons like Satyam have been vast eye-openers in the business arena to make recognize the company's administration, proprietorship and shareholders the emergent need to comply with Corporate Governance principles in mandate to prevent themselves from paying huge corporate illegal liabilities in the future (Koladkiewicz, 2001). These huge corporate giants paid the cost for lack of good corporate governance practices and corrupt policies adopted by management of these companies and their monetary consulting firms (Varma, 1997). To recognize improved why these problems around trades are growing, understood that when a corporation is accountable to its' investors and bond holder, they are adept of about better with some changes (Agarwal and Singh, 2006). The rise in corporate humiliations has formed a redirection of consideration to the further problems of corporate governance such as trust, accountability and ethics (Dutta, 2006). Jamali preaches that while investor's value expansion is still a most important objective for corporations, firms should not just be a funder to the bargain but make sure that they encourage transparency, fairness and are responsible to shareholders. Corporate governance strategies

mutually authorized and volunteer have progressed since 1998, owing to the genuine determinations of some commissions selected by the Ministry of Corporate Affairs (MCA) and the SEBI (Sabarinathan, 2010). The actual modification in the corporate division could be manipulated with the overview of 2009 Mandatory Corporate Governance Voluntary Guidelines which has to be meet the terms by corporations scheduled on stock exchange by Clause 49 of Listing Agreement together with compulsory encryptions to be monitored by corporations refer to audit committees and several revelations with high opinion to associated party transactions, whistleblower strategies etc (Sharma, 2009). It is most significant for commercial units to follow decent corporate governance in the market for their triumph. "Development in corporate governance performs to improve the decision making process within and between a company's leading bodies, and is therefore improve the efficiency of the financial and commercial operations (Friedman, 2007). Superior corporate governance tends to a development in the responsibility system, reducing the danger of fraud or self-dealing by the company officials. Corporate governance come to be an issue of renewed public interest afterward the prominent collapse of a number of huge organizations in 2001-2002, mostly owing to accounting scam. Objects complicated contained within Enron Corporation, MCI Inc. (formerly WorldCom) and several others. These humiliations and others controlled to the way of the Sarbanes-Oxley Act in 2002. Planned to reestablish public assurance in openly dealt organizations, it had an amount of necessities for reportage, transparency, accounting practice, and responsibility of individuals in situations of business accountability. Corporate governance laws differ broadly from state to state. Several choose to form organizations in single jurisdictive in excess of another since of these by-laws, amongst others. In certain occurrences, these laws might also have impression upon tax responsibilities, as well. An operative system of governance should aid guarantee obedience with applicable rules and regulations, further permit businesses to evade expensive litigation". Through respectable corporate governance the developing market can produce benefits, enhance the repute of the association and to create it more noticeable to Suppliers, customers, and investors.

3. Advantages of Good Corporate Governance

The following are the main advantages of Respectable Corporate Governance:

(i) The first is the increased access to external financing by firms. This in chance can prime to

larger asset, greater progress, and greater employment construction.”

(ii) It also accelerates better operational performance through better distribution of resources and better administration which give rise to the creation of wealth in more efficiently.

(iii) It decreases the price of assets and related advanced firm estimation. This makes more investments attractive to investors, also leading to growth and more employment.

(iv) Upright corporate governance can be related with a condensed risk of monetary crises. This is predominantly significant, as monetary crises can have great economic and social costs.”

(v) Decent corporate governance can generally improve contacts with all investors in the corporations which also tips to the cultivating of public and labor relationships. Lastly, Good corporate governance also valuable to the problems such as environmental protection and maintainable growth.

(vi) Corporate governance put down the ground work of a suitably organized Board and make every effort to a well stability among organization and proprietorship which is proficient of taking sovereign decisions for making long standing hope among the company and external stakeholders of the company.

(vii) It make stronger tactical thoughtful on the upper organization by taking sovereign directors on the board who take along knowledgeable familiarity to the corporation and impartial approach to deal with matters associated to company’s welfare.

(viii) It instils transparent and fair practices in the board management which results in financial transparency and integrity of the audit reports.

(ix) It achieved the benchmark for the corporation’s administration to meet the terms with laws in factual message and spirit while stick to principled standards of the corporation for take along effective administration answers in mandate to release its accountability for flat effective of the corporation.

4. Development of Corporate Governance

This part is separated into two segments. The first discusses about development and growth of corporate governance at international level, especially in United States of America and Great Britain. Another section contracts with development of corporate governance in India.

4.1. Global Development Scenario: USA & Great Britain

“The importance of corporate governance increased momentum in western part of globe particularly after Watergate scandal and inducement government officials by immense companies. Soon after, the

United States embraced Foreign and Corrupt Practice Act, 1977 which was followed by Protections and Exchange Commission in 1979, for mandatory fourth part estate on internal monetary controls. Yet again in 1980s, numerous business households collapsed in USA; so an additional commission was set up as Tradway Commission to recognize the reason and provide suggestion to government in this respect. In 1987, Tradway Commission formed its report and proposed the need for accurate switch environment, sovereign audit commissions, which would stare after inner regulator of businesses.”

The most recent two three spans in Great Britain, numerous big scandals and business failures were proficient such as; the Barings Bank scandal, Polly Peck scandal, Bank of Credit and Commerce International (BCCI) Scandal, Maxwell scandal and British & Commonwealth scandal etc. These cons demanded the prominence of corporate governance. Section 177 affords the necessities and method of establishing the Audit Committee. The Audit Committee intend to contain least possible three directors with Sovereign Directors creating a mainstream and majority members must have capacity to read and recognize monetary statements. The Section as well make available for a vigil mechanism in each listed and suggested class of corporations and such mechanism shall be revealed at the website of the organization and have to be point out in Board’s report (Daniels and Waitzer, 1993). In 1990s, a revolt was in full swing under Sir Adrian Cadbury to halt monetary reporting misdeeds. In 1992, ‘Cadbury Report’² circulated, which was prevalently known as ‘Cadbury Code’. It put forward for set up poles apart typical for corporate performance and morals. The Urban and the Run of the mill Exchange as a standard of decent meeting room rehearsal slowly adopted this code. In 1996, a team was fixed up as ‘Hampel committee’ to review both ‘Cadbury Report’ and ‘Greenbury Report 1995’. In 1998, The commission yield to its report, that is ‘Combined Code of Corporate Governance,’ which inter alia share out with recommended actions in the structure and processes of board, directors’ benefit, audit, and accountability, dealings with

² Cadbury Report published in 1992 outlined a number of recommendations around the separation of the role of an organization’s chief executive and chairman, balanced composition of the board, selection processes for non-executive directors, transparency of financial reporting and the need for good internal controls. See also Cadbury A, *Committee on the Financial Aspects of Corporate Governance: Compliance with the Code of Best Practices* (London: Gee Publishing 1995).

recognized investors, and responsibilities of recognized shareholders (Jesover, 2001).

“The same, in 2001 ‘Myners Review’ and in 2002 the ‘Directors’ Remuneration Report Regulations’, introduced better relationship between institutional investor and companies and the powers of shareholders in relation to directors’ pay etc. In 2002 The Sarbanes-Oxley Act was made known to rise the liability of inspecting firm to keep on objective and independent to accomplish excellence governance and to restore investor’s self-confidence. Till 2003, few divisions had been added on risk management audit committees, internal control, and remuneration (Lawniczak, 1997).

In 2008, in Great Britain the worldwide financial disaster deepened and damaged its banking and financial structure. It was piercing out by many inventiveness and financial exerts economists that owing to fragile and feeble corporate governance, companies failed to safeguard losses. The Great Britain Government asked Sir David Walker aspect exactly into the concern of corporate governance in Great Britain banks and some other large financial organizations to become constant banking system to protect people’s savings and economy³.

“The Walker Review reported in 2009, which made 39 recommendations for improved governance in banks, huge insurance corporations and other monetary organizations. The FCR, body established by Government review the code and on the basis of recommendation, came out with a new version titled as the Great Britain Corporate Governance Code, which applied to company on 29th June 2010.”

OECD & World Bank:

“Organization for Economic Co-operation and Development (OECD) was the first non-governmental organization to take initiatives for good corporate governance through its initial set of corporate governance principles in 1999. Further, OECD released a look over version of corporate governance principles in 2004, in order to create legal and regulatory frameworks for OECD and non-OECD countries.” The OECD main beliefs are guaranteeing the basis of an effective corporate governance framework, the rights of bond holder and key ownership functions, the equitable management of bond holder, the starring role of interested party in corporate governance is responsibilities of the board, transparency, and disclosure (Sharma, 2012).

“The World Bank and OECD came together with a MoU on 1999, to reform and to respond to the necessity of individual countries to improve

³ Available at: <https://www.frc.org.Great Britain/corporate/Great Britaincgcode.cfm>.

corporate governance through policy dialogue and Co-operation. The Unity between World Bank and OECD was structured along with two foremost initiatives; a Global Corporate Governance Forum (GCGF)⁴ and a series of Regional Policy Dialogue Round Tables.”

4.2 Development Scenario: India

“During the British colonial period, Indian companies were controlled by British rules and regulations. First time, the Companies Act was made known to India in 1866 which was the photocopy of the British Corporations Act at that time. Thereafter, it was amended and revised several times which was also the reproduction of English Companies Act at those times. After the independence, predominantly in 1950s and 1960s, the Tariff Commission and the Bureau of Industrial Costs and Prices were set up by the Government of India. Soon after the independence the Securities Contracts Regulation Act, 1956 and the Companies Act, 1956 came into actuality⁵. During 1970s to 1980s, the banking institutions developed rapidly, as a result there were several laws and regulation framed to regulate these institutions. Particularly in 1990s, for the period of globalization, privatization and liberalization (LPG) one of the important developments took place in the field of corporate governance and investor protection by establishment of the Securities and Exchange Board of India (SEBI) in 1992.” SEBI had likewise recognized few commissions en route for corporate governance of which the prominent are Kumarmanlagam Birla report (2000), Naresh Chandra Committee (2002) and Narayana Murthy Committee (2002). Though Kumarmangalam Birla committee come across with compulsory and non-mandatory needing boards to evaluate and reveal corporate dangers in the corporation’s annual reports .

After liberalization privatization and globalization era, the persistent and persisting steps taken by the government of India and numerous leading organizations en route for have respectable corporate governance. According to Mr. Bajpai, then chairman of the SEBI, “the Securities and Exchange Board of India (SEBI) continues to increase the bar for good Corporate Governance.” The leading phase of India’s

⁴ It’s Mission in helping countries to improve the standard of governance, for their corporations, by fostering the spirit of enterprise and accountability, promoting fairness, transparency and responsibility. Available at: www.gcgf.org or www.worldbank.org/html/fpd/privatesector/cg

⁵ Sharma J.P, *Governance, Ethics and Social Responsibility of Business*, (Ane Books Pvt. Ltd. New Delhi, 2014)

corporate governance reforms were directed at audit committees, making boards and more liberated, influential and focused monitors of management as well as helping bond holder, including institutional and foreign investors, in monitoring management.⁶

“The Confederation of Indian Industry (CII), in 1998 proposed basic code for corporate governance, which dealt with the laws, regulations, practices and implicit rulebooks that determines a company’s capability to take decision-making with bond holders, creditors and customers. In addition to this, the CII code emphasized on greater transparency in the listed company.”

Kumar Mangalam Report on Corporate Governance

“In 1999, SEBI setup a Committee under the chairmanship of Kumar Mangalam Birla to give a comprehensive view of the problems related to insider trading to protect the rights of various investors. The Mangalam committee recommended the duties and requirements of the board and the organization in establishing the systems for decent corporate governance and give emphasis to the rights of investors in demanding corporate governance (Kumar and Singh, 2012). This committee also recommended that the companies required disclosing separately in their annual reports, a report on corporate governance outlining the steps they have taken to accomplish with the references of the commission. In 2000, on the basis of CII code and Kumar Mangalam Report, the division of company affairs organized a report, which was known as report of the duty force to achieve corporate excellence through corporate governance for the companies conferring to their size and capabilities. Finally, SEBI incorporated and implemented Birla Committee’s report on corporate governance and enforced Clause 49 in its listing agreement phase wise.”

Reserve Bank of India Report on Corporate Governance

For, the Reserve Bank of India also has been consigned to work on decent corporate governance. In 2001, RBI produced 2 reports; first, report of the advisory group on corporate governance, whose primary objectives was to match the status of corporate governance in India with the globally acknowledged best standards and recommend the good practices for better-quality corporate governance in India. Second, RBI report on the counselling group of Directors of Banks, which concentrated on review of the managing part of boards of the bank and monetary organizations for

better governance policy by response on the operative of the board .

Naresh Chandra Committee

“The Ministry of Finance and Company Affairs in 2002 established a committee known as Naresh Chandra Committee and appointed Naresh Chandra as Chairman. The commission was framed to inspect several corporate governance problems and en route for endorse some variations in the assorted areas like the certification of accounts, certification of accounts and financial statement by management and directors, statutory auditor, procedure for appointment of auditors and determination of audit fee. The committee yield to its report on December 2002 and recommended the role, remuneration and training etc. of independent directors & auditors and auditor-company relationship to strengthen corporate governance.”

N. R. Narayana Murthy Committee

“The SEBI, in 2002 established another committee known as Narayana Murthy Committee under the chairmanship of Mr. N R Narayana Murthy, to analyze Clause 49 of listed agreements and to revisit the Companies Act, 1956 & The Indian Partnership Act 1932. Finally in October 2004, the recommendation by Murthy Committee on Clause 49 of listing agreement and other changes to the Companies Act, 1956 was accepted by SEBI. The committee report recommended Audit Committee and various parameters like ease of implementation, transparency, linking to whistle Blower Policy, Non-executive directors’ verifiability, fairness, enforceability and accountability.”

At past span also, the Government of India set up several committees to develop corporate governance and corporate law & policy. The Government accepted most of the recommendations from these committees to advance governance standard. In 2000, the Indian Code of Corporate Governance, approved by Securities and Exchange Board of India (SEBI) and was implemented in stages above the next two years. There were significant amendment done in the Companies Act 1956 in 2002 and 2004 in areas such as postal ballots and audit committees. Later, the J.J Irani Commission reviews the Companies Act 1956 and its recommendations directed to rewrite the law and a new Companies Bill, 2008. In 2008, the Satyam fraud directed to changed reform efforts by Indian experts and controllers. SEBI also brought new amendments in February 2009 requiring greater disclosure by promoters (i.e., regulating investors) of their shareholdings and later alterations to the Listing Agreement, together with needing listed companies to yield half yearly balance sheets. Likewise, in the month of December 2009, the Ministry of Corporate

⁶ Joshi V, *Corporate Governance: The Indian Scenario*. (Foundation Books, New Delhi, 2004).

Affairs (MCA) distributed a new set of “Corporate Governance Voluntary Guidelines 2009”, aimed to boost companies to implement the improved practices in the administration of boards and board committees, the appointment and rotation of company’s auditors, and generating a whistle blowing mechanism.”

The Companies Bill to the Companies Act 2013

In the year of 2008 on October 23, Companies Bill, 2008 was made known to the Lok Sabha to swap the Companies Act of 1956 but it was not succeeded. Again Companies Bill, 2009 was re-introduced on 3rd August 2009 in the Lok Sabha which was devoted to the Standing Committee on Funding of the Parliament for examination and report. Report of the Standing Committee on Finance on Companies Bill, 2009 was announced in the Lok Sabha on 31st August 2010. Thereafter, The Companies Bill, 2012 was made known to and passed in the Lok Sabha on 18 December 2012. Companies Bill, 2012 was placed before the Rajya Sabha and permitted by it on 8th August 2013. Further, this bill finally sent to president for his acceptance and after received the acceptance of the President of India on 29 August 2013, it has now become the most expected Companies Act, 2013.

4.3 Corporate Governance: New Developments after the Companies Act, 2013

“It has been seen that before Companies Act 2013, corporate governance was mainly being followed by the Clause 49. But the Introduction of Companies Act 2013, bring new provisions and regulations in corporate sectors. This Act deals with 470 sections spread over 29 chapters and 7 schedules, which changed the old Act 1956. The basic objective of the Act is to support self-regulation and announces novel concepts including corporate social responsibility, dormant company, small company and one-person company⁷. It stimulates investor protection and transparency by together with thoughts of class action suits, creation of a National Financial Reporting Authority, insider trading and setting up of Serious Fraud Investigation Office for investigation of fraud. Further, mammoth section 2 containing 94 definitions has been added for superior lucidity.”

Key Provisions of Corporate Governance

The Companies Act, 2013 dealt with the following provisions of corporate governance-

(i) The fresh Act incorporated the newfangled definitions of financial statement, accounting standards auditing standards, concerned director, voting right and key managerial personnel etc. it also introduced a newfangled class of companies called ‘One Person Company’ (OPC), which entitles an individual to can carry business with limited liability (Dakei and Tulsyan, 2012).

(ii) “The new Companies Act, 2013 introduced few variations concerning composition of board of directors. The Act provides that a corporation may have an extreme 15 directors on the board. However, on the necessity of more directors, the company need special resolution and requires shareholders’ approval. For the first time, the Act also defines the role and responsibility of board of directors and makes them accountable more and more with company’s functions. Failure of these duties and responsibility will lead them to punish with fine.”

(iii) The Concept of Independent Directors (IDs) was brought in by the Act of 2013. It needs the all scheduled companies to have atleast one-third of the board as Independent Directors for the stint of five consecutive years. It also fixes detailed qualifications for the appointment of an ID, such as he has to be a person of Integrity, related skill and necessary knowledge. Regarding the duties of IDs, it has incorporated expert ways for them by laying down facilitative roles, such as contributing sovereign judgment on concerns of line of attack, enactment and key appointments, and taking an unbiased view on performance estimation of the board. The new Act also empowers the IDs to certain extent because of their greater accountability and transparency in the functioning of the company.

(iv) “This Act made mandatory for enumerated companies and certain other public companies by introducing the appointment of atleast one women director on the board of company. Therefore, it is directly pointing the companies to promote women empowerments.”

(v) The new Companies Act, 2013 necessitated different committees to be formed by the board of the directors; such as (a) stakeholders relationship committee (b) Corporate Social Responsibility Committee (CSR) (c) audit committee (d) nomination and remuneration committee. In fact, these committees are necessary by the Act for better functioning of the board of directors. The function of the audit committee and the nomination and remuneration committee is to make available the arrangement for boards, whereas the stakeholder’s relationship committee and CSR Committee have assigned with the charge of keeping relations with key stakeholders.

(vi) “The Act established Corporate Social Responsibility (CSR) following the Section 135.

⁷ Geetika Vijay, ‘Corporate Governance under the Companies Act 2013: A More Responsive System of Governance’ (2014), Vol 4, Issue 4, *Indian Journal of Applied Research*, ISSN - 2249-555X

Through this provision the corporations which are creating massive profits has to occupy on CSR related activities. Companies net assets of Rs 500 crore or more or revenue of 1000 crore or net earnings of Rs 5 crore, shall assurance that these companies spends atleast 2 percentage of the average net gain through every monetary year.”

(vii) To Inspect frauds of thoughtful nature in corporate sectors, the new Act has given more power and authority to serious Fraud Investigation Office (SFIO). It has the authority of arrest in high opinion of certain offences and taking action by penalty for frauds.

(viii) Last but not the least, the new Act introduced provisions for class action where it is required that specified number of member(s), depositor(s) or any class of them, may case an submission before the Law court seeking any damage or compensation or Demand various right stroke against an audit firm. The order has come to an action by the Court of law mean to be obligatory on all the stakeholders including the corporation and all its auditors, investors and members.

5. Corporate Governance: An Eagle Eye on Corporate

5.1. Setting up of National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT)

“Upon the receipt of Presidents assent, the bill has become the Companies Act 2013. This Act has changed many existing provisions and announced more than a few new thoughts. Among that most important changes approved by the Companies Act 2013, is National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT), in dwelling of Company Law Board (CLB). This new tribunal consists both the udicial members and technical members. However, the President is chief of the Tribunal, while the chairman is the chief of Appellate Tribunal. According to Companies Act 2013, to come to be a jurisdictional member at NCLT, an individual is or should have been a High Court Judge or District Judge for minimum of five years or with a minimum of ten years’ experience as an advocate of a court. Similarly, to come to be a technical member, an individual is or should have minimum 15 years of knowledge in chartered accountants or cost accounts or company secretary. However, the progression of creation of the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) has be there kept at abeyance on reason of a legal challenge in the Supreme Court to certain requirements of the Companies Act, 2013 concerning to the constituents and composition of

these bodies. The detailed procedure for transference of pending cases will be finalized through NCLT after it is established.”

Corporate Governance and NCLT & NCL

“A sound mechanism is important to regulate an organization. Now a day, the great growth and development in corporate sector required a mechanism like NCLT and NCLAT. The objectives of this mechanism is to handle the difference of opinion arise, and to help reduce the pendency of winding-up cases, shortening the winding-up process, and evading large quantity and levels of litigation in advance high courts, the Company Law Board and the Board for Industrial and Financial Reconstruction. This Tribunal will also cover merger and acquisition disputes and the dispute arising while converting public ltd. to private ltd. There are also plan to set up 12 to 13 NCLT benches all over India to speed up corporate dispute redressal. However, the final decision is yet to be taken. So it will not wrong if we say that it’s a well decision taken by the government and policy makers to smother the governance system. However, we want to watch the more development to fix the tribunal.”

5.2. National Financial Reporting Authority (NFRA)

“The Companies Act 2013, under section 132, introduced a new controlling authority called National Financial Reporting Authority (NFRA) in dwelling of National Advisory Committee on Accounting Standards (NACAS). The basic objectives to establish this authority is to advice enforce and monitor the compliance of accounting and auditing standards as well as to act as a controlling body for accountancy profession. The NFRA is a quasi-judicial body, which consist of a Chairman and such other recommended members not more than 15. The headquarters of the NFRA located at New Delhi and it may well, come across at such places in India it believes fit. The NFRA consist of three committees such as; Enforcement Committee Accounting, Standards Committee, and Auditing Standards Committee etc.”

Corporate Governance and NFRA

“This is one of the crucial steps taken by government, as this national level body has to regulate standards of all types of reporting such as; financial as well as non-financial matters. This authority has the power to acclaim to the CG on the Formulation, lying down of accounting and auditing policies and standards for adoption by companies or their auditors, monitor and enforce the compliance with accounting standards etc. Additional, the Authority has also given the power to investigate *suo moto* or a reference made to it by the CG by bodies corporate or persons into the matter of professional or any other misconduct committed CA

and CS firms. By doing this, this will create fear among the firms and corporates to be honest and transparent in financial and non-financial matters, which will lead a good governance atmosphere inside the company.

5.3. Investor and Education Protection Fund

“Under Section 125 (5) of the Companies Act 2013, the Investor Education and Protection Fund (IEPF) Rights was established. And Investor Education and Protection Fund (established under section 125(1) of the Companies Act 2013) to educate and protect interest of investors, set up and notified under section 125(5) of the Act and managed by the Expert witness. The chief office of the Authority shall be at New Delhi and may established offices at other places in India with the prior endorsement of Central Government. Corporate Affairs Ministry Secretary would be the ex-officio chairman of the authority. Besides, there would be nominees from Securities and Exchange Board of India (SEBI) and Reserve Bank of India (RBI) an eminent legal expert and three members having minimum 15 years’ experience in investor education and protection related activities (Upadhyay and Singh, 2003). The CEO would be on the level of Senior Administrative Grade (SAG) in Indian Company Law Services or similar central government Service and shall be responsible for day to day processes and super vision of the authority.”

Corporate Governance and IEPF

Now Ministry of Corporate Affairs, under Rule 2012, has notified that Venture capitalist Education and Protection Fund requires each company to submit e-form holding the details relating to unclaimed and unpaid amounts. Through this new rule, securities containers will capable to recognize their unclaimed amount (including interest on them) every year from the website of their companies and likewise from the MCA IEPF website.

5.4 Serious Fraud Investigation Office (SFIO)

“The Ministry of Corporate Affairs under resolution dated 2003, established the Serious Fraud Investigation Office (SFIO), to investigate corporate frauds. SFIO, a multi-disciplinary organization with a Director and authorities from all backgrounds such as taxation, capital market, investigation, forensic auditing law, information technology, company law, and accountancy (Kashyap and Tomar, 2013). Generally, SFIO, takings up investigation in such cases of fraud acknowledged from Department of Company Affairs. Section 211 of the Companies Act 2013 contracts with SFIO, the Government has as well granted legal status and more power to SFIO.”

Corporate Governance and SFIO

“According to a report of Ministry of Corporate Affairs, in the last three years, 64 cases were bring up to SFIO, out of which the SFIO completed 55 cases. Now, Ministry of Corporate Affairs developed a “Fraud Prediction Model” in SFIO for producing initial threatening signals for forecast of fraud and malfeasance in the corporate region. A High-powered Steering Committee is also fixed up by the ministry with technical experts in several fields to design a wide-ranging framework for a fraud prediction model. Committee submitted the report that the Director of the SFIO to be given the authority to arrest persons if he has strong reason to believe that such persons are guilt-ridden of positive offences, including fraud. The detective of the SFIO, have now certain powers bestowed in a civil court under the Code of Civil Procedure, 1908 with esteem to the summoning of and enforcing of being present of persons and examining them on oath, discovery and production of books of accounts and other documents, the inspection of books, registers and other documents etc. Certain major scandals investigated by SFIO are Reebok Scandal, Satyam Scandal, and now Saradha Group scam, where SFIO proved its ability and proficiency. So the recent fraud in Saradha group is also an example that shows the need and importance for effective enquiry and prosecution of corporate fraud. Now it is very much clear that SFIO has got its wing now to take certain steps to investigate corporate frauds independently, which is essential for good governance.”

5.5 Corporate Governance & SEBI

“Securities Exchange Board of India (SEBI) was established to act like a watchdog to observe the activities of stock market and regulate stock market in 1988. During this period this was failed owing to inefficient exercise and control over the stock market owed to lot of misconducts in stock exchange. Such as a result in 1992, government of India brought a distinct legislation by the name of SEBI Act, 1992 and conferred the statutory power and had given SEBI the legal status (Wymeersch, 1994). The main purposes of the SEBI are to defend the interest of venture capitalist and to encourage the development of stock exchange, to adjust the activities of stock market and to kep at balance and develop a code of conduct for mediators such as underwriters, brokers etc.

It has been seen that SEBI played a most important role for effective and transparent corporate governance. This is apparent from the nonstop updation of strategies, rules and regulations by SEBI time to time (Hussain and Mallin, 2002). SEBI had established several Committees on Corporate Governance underneath the Chairmanship of Shri Kumar Mangalam Birla, and one more Committee

on Corporate Governance under the Chairmanship of Shri N. R. Narayana Murthy to add to the pellucidity and reliability of the market and for better corporate governance by amendments into clause 49 of the listing agreement (Mathur, 1997). Now after the Companies Act 2013, over a circular dated April 17th 2014, SEBI unrestricted the amendments to clause 35B and clause 49 of the Equity Listing Agreement. Now, under changed 35B norms, selected companies are mandatory to deliver the option of capability of e-voting to bond holder on all resolutions projected to be agreed at overall meetings (Bhat, 2007). Under clause 49, concerning to corporate governance, selected entities take to become shareholders' nod for associated party dealings. It would be in effect of prospectively from October 1 onwards (Shleifer and Vishny, 1997). Major Amendments under Register Agreement of SEBI are briefed as follow:

(i) Shareholders Rights (Clause 49): There have to be equitable treatment of all shareholders of same series of a class. Processes and procedures for general shareholder meetings should allow for rightful treatment of all shareholders. Voting rights must be given to foreign investors. Company must formulate a policy to prevent Insider trading and abusive self-dealing.

Provisions regarding Independent Directors (Clause 49): "This enforces certain limitations on the IDs such as External Directorship, tenure and stock option. The SEBI has decided that the more number of boards an independent director can work for selected companies be restricted to 7, while the directorship would be covered at three if the full time director in any listed company is served by the person. An ID can only hold office for two conditions of five years each and on the endorsement for the second term has to be sought after from investors over a special resolution. Except that there are certain obligatory necessities concerning IDs, these are Issue of formal letter of appointment to IDs and expose of such letter to shareholders and training of recently appointed and prevailing IDs."

(ii) Related Party Transactions: "RPTs to need corresponding approval of the audit committee. Material RPTs to require shareholder approval though special resolution and anxious related parties to desist from voting on such purposes. Disclosure of all substantial RPTs on a periodical basis with compliance report on corporate governance. Disclosure of policies on dealing with RPTs, in website and Annual Report (Dahiya and Kumar, 2012).

(iii) Disclosure and Transparency (Clause 49): Under this clause, company is mandatory to ensure well-timed and precise disclose information to its securities holders. The information providing by the company must be equal, timely and cost efficient. Maintaining of minutes of the meeting should be

under care by the company (Lazonick and Sullivan, 2000).

6. Conclusions

"Corporate Governance is in its new form with many new visions for corporate. After the introduction of Companies Act 2013, Indian has really certain of best corporate governance laws. The new Companies Act 2013 make known to such important variations in the requirements associated to acquiescence and enforcement, auditors, e-management, disclosure norms, governance, acquisitions and mergers. The Companies Act, 2013 authorizes sovereign directors with good draughts and stabilities thus such wide authorities are not trained in an unapproved manner but in an articulate and accountable way. The variations are a step onward in the accurate direction to capably run the organization and dealings of the corporations in the significance of investors. These are all at ease fluctuations in the globalized corporation world of today and they will make stronger the essential corporate machines by implanting strong corporate governance standards in a corporation foremost to financial productivity and advanced moral standards which will continuously motivate the corporation's management to work in the direction to uphold its objectives of expansion of prosperity of investors assisted with decent corporate reputation. Similarly, new ideas such as registered valuers, small companies, class action suits, dormant company, one-person company, and corporates social responsibility have been included. But it is only the corporate, how they are going to watch and implement these new laws to increase their governance."

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