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Effectiveness of Class Action Remedies in Protecting Shareholders: A Doctrinal Study

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Abstract—

Shareholder protection is an important part of corporate governance, particularly in companies where management and ownership are controlled by different persons. Minority shareholders often experience difficulties in challenging decisions taken by directors and controlling shareholders because they possess limited voting power and financial resources. The Companies Act, 2013 introduced class action remedies under Section 245 to provide a collective mechanism through which members and depositors can seek relief against prejudicial corporate conduct. This paper examines the effectiveness of this provision in protecting shareholders against corporate misconduct, mismanagement and violations of their legal rights. It analyses the statutory framework, eligibility requirements, jurisdiction of the National Company Law Tribunal (NCLT) and the relationship between class action proceedings and other remedies available under Indian company law. The paper also considers the practical difficulties associated with collective litigation, including procedural requirements, litigation expenses, delay and limited judicial interpretation. A comparative reference to the United States and the United Kingdom is made to understand how collective remedies operate in other legal systems. The study finds that although Section 245 is an important development in Indian corporate law, its practical effectiveness remains restricted by institutional and procedural difficulties. Appropriate reforms are therefore necessary to make collective shareholder protection more accessible and meaningful.

Index Terms— Class Action, Companies Act, 2013, Corporate Governance, Minority Shareholders, NCLT, Shareholder Protection, Section 245.

I. INTRODUCTION

The development of corporate organisations has created opportunities for individuals to participate in business activities without directly involving themselves in daily management. Shareholders invest their money in companies with an expectation that their investments will be managed responsibly and that their legal rights will be protected. However, the separation between ownership and management sometimes creates conflicts of interest. Directors and persons controlling the company may take decisions that benefit themselves while affecting the financial and legal interests of other shareholders.

In India, this problem is particularly relevant because several companies have concentrated ownership structures, where promoters and controlling shareholders exercise considerable influence over corporate decisions. Minority shareholders may have voting rights, but their ability to influence management decisions is often limited. In situations involving fraudulent transactions, misleading financial disclosures, diversion of company funds or misuse of corporate authority, individual shareholders may find it difficult to initiate legal proceedings.

The traditional principle of corporate law generally requires the company itself to institute proceedings where a wrong has been committed against it. This principle, recognised in Foss v. Harbottle, protects the separate legal personality of a company. However, it can also create difficulties when the persons responsible for wrongdoing control the company and prevent it from taking legal action.

Class action remedies provide an alternative approach. They allow a group of persons having similar interests to approach a competent legal authority collectively instead of filing separate proceedings. The main purpose is to make justice more accessible, reduce unnecessary litigation and improve accountability of corporate management.

The Companies Act, 2013 introduced a statutory class action mechanism under Section 245. This provision permits eligible members and depositors to approach the NCLT when the management or conduct of company affairs is prejudicial to the interests of the company, its members or depositors. They may seek preventive orders, compensation and other appropriate remedies against the company and specified persons associated with its management and professional activities.

The introduction of Section 245 represents an important development in Indian corporate legislation. It recognises that shareholders should not remain helpless merely because they individually lack sufficient resources to challenge corporate wrongdoing. At the same time, the existence of a legal provision does not automatically ensure that shareholders can successfully use it. Questions concerning eligibility, procedural requirements, costs and enforcement continue to affect its practical application.

This paper therefore examines whether class action remedies have become an effective instrument for protecting shareholders in India. It also analyses the legal and institutional difficulties that must be addressed to strengthen collective remedies and corporate accountability.

II. RESEARCH METHODOLOGY

The present study adopts a doctrinal and analytical method of legal research. It is based on the examination of primary and secondary legal sources relating to shareholder protection and class action remedies. Primary sources include the Companies Act, 2013, particularly Sections 241, 242, 245 and 246, the Companies (Management and Administration) Rules, 2014, the National Company Law Tribunal Rules, 2016 and relevant judicial decisions. The study also considers applicable provisions of securities legislation and corporate governance regulations. Secondary sources include research articles, books, academic publications, legal commentaries and institutional reports dealing with corporate accountability and minority shareholder rights. The research examines two principal questions: first, whether the existing statutory framework under Section 245 provides adequate protection to shareholders against corporate misconduct; and second, whether the procedural and institutional arrangements enable shareholders to obtain effective collective remedies. Comparative references are also used to identify possible improvements to the Indian framework.

III. EVOLUTION OF CLASS ACTION REMEDIES IN INDIA

The concept of class action developed as a response to the difficulties faced by individuals seeking justice against powerful organisations. When several persons suffer similar losses due to a common act, separate proceedings may increase the burden on courts and make litigation financially impractical. Collective proceedings address this problem by allowing representative claims.

In traditional company law, shareholder remedies were largely based on individual actions, derivative proceedings and remedies against oppression and mismanagement. However, these mechanisms did not provide a comprehensive statutory system for collective

compensation and preventive relief for an entire class of affected shareholders.

Under the Companies Act, 1956, members could seek protection through provisions relating to oppression and mismanagement. Nevertheless, there was no separate and comprehensive class action mechanism equivalent to the present Section 245.

The Companies Act, 2013 introduced a major change by recognising collective proceedings as a statutory remedy. The provision was introduced in the context of improving corporate governance, protecting investors and ensuring greater responsibility among directors and other persons involved in corporate activities.

Section 245 came into force on 1 April 2014. It provides an opportunity for eligible members and depositors to approach the NCLT where corporate conduct affects their collective interests. The provision also extends possible liability to auditors, audit firms, experts, advisers and consultants in specified circumstances.

The development reflects a broader understanding that corporate accountability should not depend only upon government regulation. Shareholders themselves must have a reasonable opportunity to challenge unlawful corporate conduct. However, the Indian mechanism remains comparatively young. Its practical development has been slower than expected, partly because of procedural restrictions and limited judicial interpretation. Therefore, the evolution of class action remedies in India should be understood as an ongoing process rather than a completed reform.

IV. LEGAL FRAMEWORK GOVERNING CLASS ACTION REMEDIES

A. Section 245 of the Companies Act, 2013

Section 245 is the principal statutory provision dealing with class action remedies in India. It allows the prescribed number of members or depositors to file an application before the NCLT when they believe that the management or conduct of company affairs is prejudicial to the interests of the company, its members or depositors.

The provision permits applicants to seek different forms of relief. These include restraining the company from committing acts beyond its memorandum or articles of association, preventing violations of statutory provisions and challenging resolutions obtained through suppression of material facts or misrepresentation.

Another important feature is the right to seek compensation. Under Section 245(1)(g), applicants may claim damages or compensation against the company or its directors for fraudulent, unlawful or wrongful acts or omissions. Claims may also be brought against auditors, audit firms and other professionals for improper or misleading statements or specified wrongful conduct.

The inclusion of professional advisers is significant because corporate misconduct may involve more than the directors alone. Auditors and consultants also have responsibilities in maintaining the reliability of corporate information. Their involvement in wrongful activities should not remain outside the scope of accountability.

Section 245 also empowers the Tribunal to grant any other suitable remedy according to the circumstances. Therefore, the provision contains both preventive and compensatory remedies. This gives shareholders an opportunity to stop harmful corporate decisions and seek compensation for wrongful conduct.

B. Eligibility Requirements and Procedural Conditions

The right to initiate a class action is subject to prescribed eligibility requirements. Under Section 245(3), the required number of members or depositors is determined according to the nature of the company and the applicable rules. Under Rule 84 of the Companies (Management and Administration) Rules, 2014, members of a company having share capital may apply where there are at least 100 members or the prescribed percentage of total members, whichever is less, or members holding the prescribed percentage of issued share capital. The relevant threshold for members holding shares is generally ten per cent, subject to the statutory conditions. Similar requirements apply to depositors. Companies without share capital are subject to the prescribed membership threshold. These requirements are intended to ensure that class action proceedings represent a genuine collective grievance. However, they may create difficulties for small shareholders who are unable to organise the required number of applicants or hold the necessary proportion of shares.

C. Role of NCLT Rules, 2016

The National Company Law Tribunal Rules, 2016 provide procedural guidance for class action proceedings. Rule 85 requires the Tribunal to consider whether a class action is desirable, whether common questions of law or fact exist and whether representative applicants can adequately protect the interests of the class. Rule 86 recognises the opt-out mechanism, subject to the Tribunal's permission. Rule 87 deals with publication of notice to members or depositors after admission of an application. These procedural safeguards are important because the decision in a class action may affect persons who are not directly participating in the proceedings. Proper notice and representative fairness are therefore necessary.

D. Relationship with Oppression and Mismanagement

Sections 241 and 242 of the Companies Act, 2013 provide remedies against oppression and mismanagement. Section 241 allows eligible members to approach the Tribunal when company affairs are conducted in a manner prejudicial to the interests of the company or its members. Section 242 empowers the Tribunal to grant appropriate orders to bring an end to the matters complained of. Although these provisions share the objective of protecting shareholders, they are not identical to Section 245. Oppression and mismanagement proceedings focus on the nature of corporate conduct and its prejudicial effects, whereas class actions provide collective relief to a class of affected members or depositors. The availability of these remedies strengthens shareholder protection, but the differences between them must be clearly understood to avoid confusion and unnecessary duplication of proceedings.

V. ROLE OF NCLT IN SHAREHOLDER PROTECTION

The National Company Law Tribunal is the principal adjudicatory institution responsible for dealing with applications under Section 245. Its role is important because class action proceedings involve the interests of several shareholders and may affect the functioning of the company.

The Tribunal examines whether the applicants satisfy the statutory requirements and whether the application represents a genuine collective grievance. It also considers whether the representatives are acting in good faith and whether separate proceedings would create inconsistent decisions.

After admitting an application, the Tribunal may issue public notice to the members or depositors concerned. Similar applications involving the same cause of action are required to be consolidated into a single proceeding. This prevents unnecessary duplication and ensures that the class is represented through an appropriate lead applicant.

Another important responsibility of the Tribunal is to determine the appropriate relief. Depending upon the circumstances, it may restrain unlawful corporate actions, declare certain resolutions void or grant compensation where the legal requirements are satisfied.

Section 245 also provides consequences for failure to comply with Tribunal orders. A company that fails to comply may face statutory punishment, including fines, while officers in default may also face imprisonment and monetary penalties.

In Siddharth Sahib Singh v. Apex Council of DDCA, W.P. (C) 8634/2023 (Delhi High Court, July 10, 2023), the Court recognised the availability of statutory remedies before the NCLT in relation to grievances involving company law. The decision demonstrates the importance of approaching the specialised forum where an effective statutory remedy is available.

Therefore, the NCLT is not merely an institution for resolving disputes. It also plays an important role in ensuring that collective shareholder rights receive proper legal recognition.

VI. EFFECTIVENESS OF CLASS ACTION REMEDIES

The effectiveness of class action remedies can be understood by examining their contribution to minority shareholder protection, corporate accountability and access to justice.

Firstly, collective proceedings strengthen the position of minority shareholders. An individual shareholder may possess very limited influence over corporate decisions, particularly where promoters hold substantial voting power. Through a class action, shareholders can combine their grievances and present a stronger legal claim.

Secondly, the availability of compensation provides an important form of financial protection. Shareholders may suffer losses due to misleading disclosures, fraudulent transactions or unlawful conduct by persons responsible for corporate management. Section 245 provides a legal mechanism to seek compensation for specified wrongful acts.

Thirdly, class actions encourage transparency and responsible corporate behaviour. Directors and auditors may become more careful in carrying out their duties when their actions can be challenged through collective proceedings. This contributes to stronger corporate governance.

Fourthly, class actions reduce duplication of litigation. Where many shareholders are affected by the same conduct, a single proceeding may be more efficient than several individual cases. It also reduces the possibility of inconsistent decisions.

However, the effectiveness of the provision is not without limitations. The eligibility requirements may prevent certain shareholders from accessing the remedy. Organising a large group of investors requires communication, documentation and coordination, which can be difficult in companies having widely distributed shareholding.

Financial difficulties are another concern. Even collective litigation involves legal fees, professional assistance and expenses relating to documentation. Smaller investors may hesitate to initiate proceedings when the outcome is uncertain.

Further, delay in adjudication can reduce the practical value of the remedy. Corporate decisions may become difficult to reverse once transactions are completed. Therefore, timely preventive orders are essential for meaningful shareholder protection.

Vikramaditya S. Khanna, in his analysis of corporate and securities law enforcement in India, identifies institutional delay, litigation financing difficulties and the ownership structure of Indian companies as important limitations affecting the value of class actions. These observations demonstrate that the statutory mechanism must be supported by effective institutions.

VII. CRITICAL APPRAISAL

Section 245 represents an important legislative effort to strengthen collective shareholder protection. However, its actual effectiveness must be examined beyond the recognition of rights in legislation.

One major concern is the limited practical use of the provision. Although class actions have been available since 2014, the mechanism has not developed into a widely used form of shareholder litigation. This raises questions regarding awareness, accessibility and procedural convenience.

Another difficulty is the absence of extensive judicial interpretation. The Tribunal must deal with questions concerning commonality of claims, representative applicants, compensation and the scope of relief. Without consistent judicial guidance, applicants may face uncertainty when preparing their cases.

The ownership structure of Indian companies creates an additional challenge. Where promoters exercise substantial control, minority shareholders may find it difficult to organise collective action. Their dependence on corporate disclosures also affects their ability to identify wrongdoing at an early stage.

The provision also excludes banking companies under Section 245(9). This statutory exclusion limits the application of the class action mechanism in that sector, although other regulatory and legal remedies may remain available.

Further, class action proceedings must be distinguished from derivative actions. In a derivative action, a shareholder seeks to enforce a right belonging to the company where the company is unable or unwilling to act. Section 245, on the other hand, provides a specific statutory collective remedy for the classes and grievances covered by the provision. Confusing these remedies may create unnecessary procedural complications.

Therefore, the principal weakness is not the absence of statutory recognition but the gap between the legal intention and practical implementation. The provision has potential, but that potential has not yet been fully realised.

VIII. SUGGESTIONS

Based on the above analysis, the following reforms may improve the effectiveness of class action remedies in India.

1. The eligibility requirements should be reviewed to ensure that genuine minority shareholders are not prevented from approaching the Tribunal merely because they cannot organise the prescribed number of applicants.
2. The NCLT should adopt efficient case management practices for class action proceedings. Early hearings and proper management of common legal issues can reduce unnecessary delay.
3. Shareholder awareness should be improved through investor education programmes. Many investors may not be aware that Section 245 provides a collective legal remedy against specified corporate misconduct.
4. The possibility of lawful litigation financing should receive greater attention. Financial assistance and suitable cost-sharing arrangements can improve access to justice for small investors.
5. Clearer judicial guidelines should be developed regarding representative applicants, compensation and the treatment of common claims. This would provide greater certainty to both shareholders and companies.
6. Coordination between SEBI and the NCLT should be strengthened wherever securities violations and collective shareholder grievances arise from related corporate conduct.
7. Safeguards against frivolous applications should continue, but they must be applied carefully. Genuine shareholders should not be discouraged from seeking relief merely because corporate litigation involves complex legal questions.

These reforms can help transform class action remedies into a more accessible and reliable system of collective shareholder protection.

IX. CONCLUSION

Class action remedies represent a significant development in Indian corporate law because they provide shareholders with an opportunity to challenge corporate wrongdoing collectively. Section 245 of the Companies Act, 2013 recognises that minority shareholders should not be left without an effective remedy merely because they lack individual financial strength or voting power.

The provision provides preventive and compensatory relief and extends accountability to directors, auditors and specified professionals. It also strengthens the role of the NCLT in protecting collective shareholder interests. However, the effectiveness of the remedy remains affected by eligibility thresholds, procedural difficulties, litigation expenses and institutional delays.

The study finds that statutory recognition alone cannot guarantee meaningful protection. Shareholders must be able to access the remedy without unreasonable difficulties, and the Tribunal must be capable of providing timely and effective decisions.

India therefore requires procedural improvements, stronger shareholder awareness and consistent judicial interpretation to achieve the intended purpose of Section 245. Class action remedies should not remain only a theoretical protection available in legislation. They must become a practical instrument through which shareholders can hold corporate management accountable.

Ultimately, effective collective remedies are essential for developing transparent corporate institutions, protecting minority interests and maintaining investor confidence in the Indian corporate environment.

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