



APPOINTMENT OF WOMEN AS COMPANY'S DIRECTOR: AN ASCENSION TOWARDS WOMEN EMPOWERMENT

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ABSTRACT

This article discusses the inequalities faced by women in the corporate world and how the enactment of Companies Act, 2013 can pave way for the inclusion of more women in the top administration of a company by making the mandatory appointment of at least one woman director in its board. It also refers to the study done by Catalyst (a nonprofit research organization) on the administration of fortune 500 companies to assess the actual scenario of women representation in company boards after the introduction of the Companies Act, 2013. The analysis of their data reveals that the women board members are usually related to the promoters of the company and talented and experienced women outside the promoter's group of family and friends may not get a chance to be part of a company's board in spite of the fact that their induction may result in enhanced transparency, profitability and sustainability of corporate growth.

Keywords: Companies Act 2013; Women Empowerment; Women Directors; Indian Companies.

Introduction

There are various manifestations of inequality prevalent in our society that is founded on the basis of religion, caste, creed etc. Inequality based on the sex of a person is one such form which is predominant in India. Women have suffered a lot in our country since ages in different forms like female infanticide, child marriage, dowry and sati. Apart from all these issues in the social sphere of life they have also faced

inequality in the economic sector. In order to counter and eliminate these persistent inequalities of our society, our constitution has incorporated various legislations to eradicate all forms of inequalities in various spheres of life including economic opportunities.

For instance, the constitution has integrated several provisions to provide equal means of livelihood to women and to provide them with equal opportunities at

workplace at par with men like the proviso of equal pay for equal work. But the incorporation of these legislations in the constitution is not enough to bring about equality among men and women unless there are proper systems in place to ensure their effective implementation. In addition to this women should also be empowered to be aware of their rights and fight for them in every possible way.

In contemporary times, women are proving their mettle in the field of art, science, literature, space, army etc. Corporate sector too is one such field where women have shown their calibre. Their participation in the corporate sector has been boosted by the provisions in the Companies Act, 2013 which encourages women's presence in the company's board of directors. Employment of more women in a company not only adds to the diversity at workplace which positively affects the productivity and work environment of the company but it is also a step closer to provide women with equal work and pay opportunities.

Requirements of Companies Act, 2013

However, the mere presence of women in the workforce of a company is not sufficient to empower them. Hence there is a need to allow them to be a part of higher level of decision making process through their inclusion in the board of directors. "Catalyst" a non profit research organisation in America stated that in 2012, 17% of the board seats of Fortune 500 companies were held by women. In UK the presence of women in the company's board stood at around 19% while in Norway their

participation in top management was surprisingly 41 %. But when it comes to Indian companies the participation of women in company's administration stands at a dismal 7%. Therefore, the new Companies Act of 2013 will be instrumental in giving a thrust to improve the representation of women directors on the company's board.

The Companies Act has mentioned certain criteria of the companies that need to appoint women as directors with reference to Section 149(1). This criterion is currently displayed on the MCA web site which is as follows:

- a. At least one woman director should be appointed within one year in every listed company from the commencement of the second proviso to Section 149(1).
- b. Every other Public company which has a paid up capital of 100 crores or more or a turnover of 300 crores or more has to compulsorily appoint a woman director within 3 years from the commencement of second provision to Section 149(1) of the Act.
- c. A time period of one year was allotted to hire a suitable woman director since it requires ample amount of time and resources to find a worthy candidate. This deadline of 1 year was extended by SEBI from October 1, 2014 to April 1, 2019 to allow more time for companies to adhere to the new norms.

The additional conditions mentioned in the Act are given below:

As per section 152(5), each individual including the woman appointed to hold the office of a director must provide the company a written consent to adhere to the requirements mentioned on the MCA portal and to act according to the conditions mentioned in Form No. 11.2. The woman chosen to be appointed as director has to procure a DIN and should give a declaration that she is not disqualified to be appointed as a director.

The woman director can function like any other director on the board. She can either work as a Nominee Director who will be recommended by a party in the company to protect their interests or she can function as an Independent Director who is not required to retire by rotation.

Furthermore, more than one woman can also be appointed as the board of director in a company and if any one of them leaves the post it will not be considered as an intermittent vacancy, as the company still satisfies the condition of having at least one woman director in its board as per the Companies Act of 2013.

Woman Directors: A Must For Making Businesses Successful

A study done by Catalyst, a non profit research organization on the administration of fortune 500 companies found that the financial performance of companies with highest representation of women directors in its board was far more than the companies which had less number of women as their board of directors. The companies with higher participation of women in its board show more focus and diversity in their work

because of which these companies have increased their profits and expanded their businesses. These companies are mainly from countries like Norway, Belgium, France, Iceland, Italy, European Union, Germany, Spain, Malaysia, United Arab Emirates, Netherlands, Austria, Israel and Finland (Liu *et al.*, 2014). In spite of these findings the statistics related to number of women as board of directors in Indian companies is quite disappointing.

Higher representation of women in the company's board of directors not only leads to higher sales and production but it also enhances the public image of the company. Therefore giving women ample opportunity to be a part of the companies administration should not be a mere formality as participation of women in the decision making process of the companies does lead to increased financial return through higher return on equity (ROE) (Adams & Ferreira, 2009). This is evident from the data which shows that a private company having a blend of both men and women as its board of directors and run by a professional CEO boosted the ROE by 4.4% within a year from 2013 to 2014. In comparison to that a similar company with an all men board of directors had a mere 1.8% rise in the same time period. Some of the examples of successful women directors are Kiran Mazumdar Shaw who as a director of Biocon Limited has increased the return on equity, while Kalpana Saroj, the Chairperson of Kamani Tubes transformed a non performing company into a successful business venture. Renuka Ramnath, the founder and CEO of Multiple Alternate Asset Management have also played a

crucial role in the success of many companies of which she is a board of director.

Actual Representation of Women as Board Directors in Indian Companies

With reference to the corporate governance reports filed by companies till 31st December, 2018 almost 118 of the top 500 NSE-listed companies did not appoint any independent woman member as its board of directors. This list composed by market tracker Prime Database comprises of 16 companies which are a part of top 100 companies. In order to tackle this problem of non inclusion of women in many of these company boards the Securities and Exchange Board of India directed these top 500 companies to hire at least one female independent director before April 1, 2019.

Despite these clear directions by SEBI, the appointment of independent female directors has not materialized because of the fact that most of the existing women directors on board are family members of the owners. According to Saundarya Rajesh, founder of AVTAR Group (India's foremost Diversity& Inclusion consulting firms), these women may not have the required problem solving potential or innovative intelligence that may be useful for the organizations success. As per the data available the expected gains intended by the inclusion of women directors has not been accomplished yet since 25% of the women directors belong to the family of the owners.

As per the records obtained by Prime Database only 1167 companies out of 1723

NSE listed companies have fulfilled the directive of including one female in its board till 26th January 2018. Out of the 1167 companies having women directors 425 companies have female directors belonging to the promoter's group or family (mothers, wives, sisters and daughters). One such leading example to validate this finding is the induction of Nita Ambani, wife of Mukesh Ambani in the board of Reliance Industries in June 2014. This finding can be further verified by the fact that a total of 83 women that have been inducted in the board of directors belong to promoter families. In spite of all this diversity experts like Naina Lal Kidwai who also happens to be the chairman of the India Advisory Board of Advent International Private Equity perceives the inclusion of women from promoter's family in the board as a positive development since it prepares them to deal with corporate governance issues which might aid them in protecting their interests in the future. The statistical data also shows that while 56 companies did not even have one woman director on its board there were 285 companies which had more than one.

Despite the predominant opinion of most people that there aren't many sufficiently qualified women who can be a part of the company's board of directors, specialists on gender diversity have a different view. Ms. Kidwai states that there are ample qualified women who are available and willing to be recruited as board of directors but they are not given a fair chance since most of the companies want a woman who is already a part of some other company's board of directors. There are enough examples to support this

argument like Falguni Nayar of Nykaa.com, Kalpana Morparia of JP Morgan, Manisha Girotra of Moelis and Ireena Vittal who are either promoters family, friends or well-known personalities. CEO of The Forum for Women in Leadership (WILL Forum), Ms. Poonam Barua, who runs a board capability programme that has certified almost 300 women for boards in the last 2 years, aptly states that majority of the companies do not enlist new women on the board as they prefer to enrol from the old women's club that has been there since ages. One such well known example of the fact discussed before is that of Renu Sud Karnad – managing director of HDFC Ltd. She is a director on the boards of seven companies. In fact, this case can be further validated by the data which shows that a total of 17 well known women hold about 94 board positions. This makes it really tough for the women in second-rung executive roles who have sufficient experience to get an actual berth on top company boards. This is enough evidence to reiterate the fact that Companies are inclined to employ from a familiar talent pool which results in the appointment of same women executives in multiple boards.

In a recent interview with ET, the former managing director of Britannia Ms. Vinita Bali too stated that there are enough competent women who are eligible to hold a director's post in the company's board and that their perspective and ideas are essential for the success of a company since they account for half of the world's population. She further shared her experiences while comparing the outcome of the board meetings with only male members to that of

board meetings with at least two women members. The latter being a more diverse group had a more quality intensive dialogue as it gave attention to details thus leading to more effective outcomes. She also added that women need not necessarily be CEO's but can be functional experts in the board with a proven track record, leadership skills and maturity. Another prominent woman entrepreneur Ms. Kiran Mazumdar - Shaw, chairman of Biocon, stated that the companies tend to concentrate too much on a small pool of women as board of directors and ignore the larger, more qualified set of young women administrators who are ready to occupy board seats.

Conclusion

With the analysis of the above mentioned data and facts it can be aptly stated that the legislation regarding the compulsory appointment of at least one woman as board director has increased women's participation in the decision making process of the boards. Improving gender diversity in companies would ensure economic success and to accelerate this idea further people need to be more open to appoint new women representatives at top company positions (Pucheta-Martínez *et al.*, 2016). However there are some large conglomerates like RPG Enterprises Ltd, Essar Group, Mahindra and Mahindra Ltd. who are recruiting women from non-profit organizations, academic and research institutions, government agencies and audit firms to be part of their boards.

Therefore we can say that the 2013 milestone enactment has opened the gates for gender diversity in company boards by

increasing women participation. This has not only made women's role more influential and significant in the company's management but it has also paved way for enhanced transparency, profitability and sustainability of corporate growth in the country. Since the scope of litigation will grow in the near future these kinds of laws will go a long way to eradicate the gender inequalities prevalent in companies which in itself is a herculean task.

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