



## Role of board of directors in corporate governance in Indian power sector

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### Abstract

Corporate Governance is the process of creating and enhancing long-term sustainable value for the stakeholders of the company through the business process based on conscience, openness, fairness, professionalism and the accountability. The board of directors of a company through their skill and experience can provide leadership and an independent view to the company's management and thus ensure good corporate governance. This research paper tries to evaluate the role of board of directors in corporate governance as laid down by SEBI under clause 49 of listing agreement in two Indian power sector companies namely Tata Power (private sector) and NTPC (government company). For this paper secondary data from annual reports of 2016-17 of these companies were studied. By evaluating several parameters relating to board of directors, it was found that Tata Power had a higher level of compliance than NTPC.

**Keywords:** corporate governance, board of directors, Independent directors, clause 49

### Introduction

Essence of corporate governance is increase in long term value creation for all stakeholders without sacrificing on integrity, openness, fairness, social obligations, compliances of rules and regulations. "Corporate governance is a key element in improving economic efficiency and growth as well as enhancing investors' confidence. It also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performances are determined. Good corporate governance should provide proper incentives for the board and the management to pursue objective that are in the interest of the company and its shareholders and should facilitate effective monitoring<sup>[1]</sup>."

Maintaining good corporate governance is not only the responsibility of the board of directors, but the directors do play a key role in ensuring good corporate governance. Good corporate governance should be a part of the directors' mentality when discharging their duties. The directors should propel the company for which they work to have a culture of good corporate governance. The board should provide leadership and strategic guidance to run their company in an effective and ethical manner so as to maximise the value for all stakeholders. CEO and board of directors should set a 'tone at the top' to establish high standard of ethics, transparency and disclosure. Management and the directors should never put personal interests ahead of or in conflict with the interest of the company.

The fall of large international organizations likes Enron, World Com, of the US and Xerox of the Japan are due to the absence of compliance of good corporate governance practices and malpractices adopted by the management of these

companies. In India also there are several instances of corporate failure due to lack of transparency and disclosure and falsification of the accounts. This discourages the investors to make investment in the companies with a poor record of corporate governance. To curb these malpractices Governance guidelines were introduced by the Companies Act 2013, and clause 49 of listing agreement by SEBI. These governance guidelines cover aspects related to composition and role of the Board, Chairman and Directors, Board diversity, definition of independence, Directors term, Tenure and committees of the board. The present paper tries to evaluate the performance of two Indian companies namely, the Tata Power Company Limited and National Thermal Power Corporation (NTPC) from the power sector regarding adherence to corporate governance norms related to board of directors.

### Literature Review

Nicolas Grcia *et al.* –their paper measures board effectiveness on the basis of shareholder outlook, and test whether it is valid for the stakeholder's outlook. The paper shows that effective boards are more likely to address the interest of both the shareholders and the rest of the firm's stakeholders.

Ranya Fathallah Dokhelalla – this study examines the characteristics of the directors of Australian listed companies on the ASX 50 index, particularly in relation to the characteristics of non-executive directors, the number, the gender and the qualification of the directors, and the average age of the directors. The finding of this research is that the ASX principals have resulted in minimal change in the characteristics of the board of the directors.

Keay, A. R. & Loughrey, J.- this article explores the meaning of the concept of accountability and providing a framework to access whether accountability is present in corporate governance context and it does so while focussing on board

<sup>1</sup> Organisation for Economic Co-operation and Development, Principles of corporate governance

accountability.

### Research Methodology

The two Indian companies namely Tata Power and NTPC are evaluated with respect to the requirements of corporate governance norms as laid down by the Companies Act 2013

and clause 49 of the listing agreement relating to board of directors. For this purpose the data is taken from the annual reports of these companies for the financial year 2016-17.

20 corporate governance parameters relating to the board of directors were selected and the score 1 was assigned if the company fulfilled the prescribed parameter and 0 if it did not.

**Table 1:** Data Analysis and Discussion

S. No.	Board of directors parameters	Tata power	NTPC
1	Report on corporate governance	1	1
2	Details of chairman	1	1
3	CEO duality	1	0
4	Percentage of non-executive director	1	0
5	Required no. of independent directors	1	0
6	Lead independent director	0	0
7	Women director	1	1
8	Appointment of independent director with criterion	1	1
9	Definition of independent director	0	0
10	Tenure of independent director	1	1
11	Separate meeting of independent directors	1	1
12	Orientation of BOD including independent director	1	0
13	Regular communication to non-executive directors	0	0
14	Training and workshop of the directors	1	0
15	Affirmative statement from the independent director	0	1
16	Tenure of other directors	1	1
17	Post board meeting follow up system	1	0
18	Evaluation of non- executive directors	1	1
19	Details of other directorship/chairmanships/ membership of other committees	1	1
20	Presence of chairman in all board meetings	0	1
	Total	15	11

SEBI (listing obligations and disclosure requirements) Regulations 2015 stipulate that not less than 50 percent of the board of directors should comprise of non-executive directors and should have at least one woman director. If the chairman of the board of directors is non-executive director than at least one third of the board should comprise of independent directors whereas if the chairman is an executive director than at least half of the board should comprise of independent director.

By analysing the annual reports of the two selected companies it was found that Tata Power has 10 non-executive directors out of a total of 12 directors thus fulfilling the SEBI regulations but the board of directors of NTPC does not fulfil the requirement of 50percent non-executive directors on the board.

Tata power has 6 independent directors on the board which is more than the stipulated requirement as it has a non-executive chairman, on the other hand NTPC has only three independent directors with an executive chairman, which is less than the required number of 6. Tata power appointed three women directors in the board whereas NTPC has only one woman director.

As per good corporate governance norms the chairman of the board and the CEO should be different persons. In Tata Power Mr. N. Chandrasekaran is the chairman and Mr. Anil Sardana is the CEO of the company. In NTPC Shri Gurdeep Singh is the chairman and the managing director, whereas there is no post of CEO.

None of the companies appointed lead independent director.

According to SEBI guidelines every listed Company should have Independent Directors in its Board. Independent director shall mean “a non-executive director or, other than a nominee director of the Company who fulfils the criteria of independence as laid down in the Listing agreement which is similar to the Companies Act.” Both the companies did not give the definition of independent director but tenure and details of separate meetings of independent directors were given.

The Companies should provide suitable training to independent directors. Details of such training imparted are disclosed in the Annual Report of Tata Power Ltd. But NTPC failed to disclose any information regarding orientation, training and workshop for their board of directors in their annual report.

In NTPC all the independent directors have given the declaration that they meet the criterion of independence as per the provision of the Companies Act, 2013 and SEBI LODR but no such information was disclosed by the TATA POWER in its annual report.

In the Tata Power Ltd. all important decisions taken at board/ committee meetings are communicated to the concerned department promptly and an action taken/status report on the decisions of the previous meetings is placed at the next meeting of the board, i.e., they have a post board meeting follow up mechanism but no such information was given by NTPC.

Tenure, evaluation technique of non-executive directors and details of other directorship/ chairmanship/ memberships of

other committees were disclosed by the both the companies. In NTPC the chairman attended all board meetings whereas in Tata Power Ltd. the chairman attended none of the board meetings during the year.

### **Conclusion**

The essence of Corporate Governance is about maintaining the right balance between economic, social, individual and community goals. The board of a company provides leadership, strategic guidelines, objective and independent view to the company's management thus providing a path to sustainable and profitable existence and growth. On the basis of parameters of corporate governance related to board of directors, both the companies under study showed adequate compliance of the same but Tata Power has shown better performance with 15 points out of 20 as compared to 11 of NTPC.

### **References**

1. Iti Bose, Shailesh J. Mehta, Corporate Governance and Law- Role of Independent Director; theory and Practice in India, Social Responsibility Journal. 2009; 5(1):94-111.
2. Garcia Nicolas F. Fernandez Belen, Cuesta Marta De La. Board of Director's effectiveness and the stakeholder perspective of Corporate Governance: Do effective Boards Promote the interest of Shareholders and Stakeholder, Business Research Quarterly. 2016; 19(4):246-260.
3. Ranya Fathallah Dakhelalla, the Impact of Corporate Governance Principles on Board Characteristics: An Australian Study, Research online School of Accounting and Finance, 2014.
4. Key AR, Loughrey J. The Framework for Board Accountability in Corporate Governance, White Rose Research Online, Legal Studies. 2015; 35(2):252-279.
5. Renee B Adams, Benjamin E Hermalin, Michael S Weisbach. Role of Board of Directors in Corporate Governance: A Conceptual Framework and Survey, Journal of Economic Literature. 2010; 48(1):58-107.
6. Pei Sai Fan. Review of Literature and Empirical Research on Corporate Governance, Monetary Authority of Singapore, Staff Paper, 2004.