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OPPRESSION AND MISMANAGEMENT IN INDIAN CORPORATE LAW: A CRITICAL ANALYSIS THROUGH THE LENS OF VIKRAM BAKSHI V. MCDONALD'S INDIA PRIVATE LIMITED

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1. Introduction

The case of *Vikram Bakshi v. McDonald's India Private Limited* marks a significant turning point in the interpretation of corporate governance laws in India, particularly in the context of oppression and mismanagement under the Companies Act, 1956.¹ This case highlights the complexities and challenges that arise within joint venture agreements, where the balance of power between majority and minority shareholders can lead to disputes that necessitate judicial intervention.²

The National Company Law Tribunal (NCLT) decision in this case not only addresses specific grievances of a minority shareholder but also establishes important precedents for future corporate governance disputes. As multinational corporations like McDonald's operate in diverse markets, understanding the dynamics of these partnerships is crucial. The ruling underscores the need for equitable treatment of all stakeholders and emphasizes the importance of transparency, fairness, and adherence to corporate governance principles.

This detailed analysis explores the underlying business model of McDonald's India, the legal framework surrounding oppression and mismanagement, the key facts of the case, the arguments presented by both parties, the NCLT's decision, and a critical analysis of the ruling's implications for corporate governance in India.

2. Company Business Model

2.1 Overview of McDonald's India:

McDonald's India operates as a private, unlisted entity primarily through two joint venture

¹ *Vikram Bakshi v. McDonald's India Pvt. Ltd.*, NCLT Order (India, September 11, 2024).

² R. Singh, *Corporate Governance and Minority Shareholder Rights: The Indian Perspective*, Indian Journal of Corporate Law (2018).

partners: Connaught Plaza Restaurants Private Limited (CPRL) and Hardcastle Restaurants Private Limited (HRPL).³ The company utilises a master franchise system, with CPRL managing operations in the northern and eastern regions and HRPL overseeing the western and southern areas. Each of these entities operates as a 50:50 joint venture with McDonald's Corporation, with franchise agreements governing the relationships at the outlet level.

2.2 Revenue Streams:

The business model of McDonald's India is multifaceted, relying on various revenue streams, including:

1. Franchise Fees:

McDonald's earns income from franchisees through initial franchise fees and ongoing royalties based on their sales.

2. Company-Operated Outlets:

Direct sales from McDonald's-owned outlets also contribute to revenue, though the majority of the business is conducted through franchises.

3. Supply Chain Management:

The vertically integrated supply chain that McDonald's follows emphasizes both on quality control and cost efficiency. This also ensures that all sourced ingredients satisfy regulatory standards and brand quality standards as well as solidifying the company's operational framework.

4. Real Estate Strategy:

For franchises, the company may often own or lease properties utilized by franchisees, which generate a confirmed earnings stream from rental agreement. A further development of the strategy is that this arrangement not only gives the business a physical location or outlet but also provides it with a valuable asset.

2.3 Operational Structure

Most of McDonald's India's operational success is attributed to its good supply chain management which includes:

1. Sourcing Local Ingredients:

The company's focus is on sourcing local ingredients in order to comply with such regulatory requirements and consumer preferences. This strategy lowers the costs and

³ McDonald's India Private Limited, "Business Model Overview," (<https://www.mcdonalds.com>) (accessed September 11, 2024).

the freshness of its offerings.

2. **Quality Control:**

This means that the brand's reputation is maintained as they place great emphasis on quality across all its outlets. This covers rigorous checks, and compliance to comply to internal standards' and external regulations'.

3. **Franchisee Relationships:** Essentially, the operational model creates a mixed relationship between the franchisees and the company, which dictates a rallying point with the overall business strategy as well as quality expectation of the company.

4. **Strategic Positioning:** The placement of McDonald's India in the fast-food market stresses the need for the company to consistently adhere to global standards while also adapting to the local tastes. This dual approach of customer satisfaction and brand protection and market share enhancement places the brand in a double guard role and reduces susceptibility to failure.

3. Legal Overview of Oppression and Mismanagement in India

The concept of oppression within the context of corporate governance was first articulated by the Indian Supreme Court in the case of *Needle Industries (India) v. Needle Industries Newey (India)*.⁴ The definition of oppression by the Court includes managerial misconduct and lack of business integrity; it covers diverse kinds of unfair dealing with minority shareholders.

3.1 Legal Framework:

Section 397:⁵

Relief against oppressive actions of majority over minority shareholder is also allowed in the section if the minority shareholders petition for relief to the NCLT.

Section 398:⁶

Also, the section is on mismanagement in that shareholders may apply to seek intervention in the affairs of company when the affairs are being conducted in a manner prejudicial to the interests of the company.

⁴ *Needle Indus. (India) v. Needle Indus. Newey (India)*, 3 SCC 333 (India 1981).

⁵ The Companies Act*, No. 1 of 1956, § 397, India Code (1956).

⁶ The Companies Act*, No. 1 of 1956, § 398, India Code (1956).

Section 402:⁷

It confers the NCLT all the powers to pass any order it considers fit in relation to oppression and mismanagement.

Section 241:⁸

Shareholders can petition the NCLT in the event the company business is being run in a manner prejudicial to public interest, company interest or interest of shareholders, through an application made in this section. This embraces both minority oppression by shareholders and mismanagement of the company's affairs.

Section 242:⁹

It empowers the NCLT to pass any necessary orders for resolving such issues of oppression or mismanagement. It can even regulate the future conduct of the company, remove or appoint directors, impose restriction over share transfers or agreements, etc.

Section 243:¹⁰

The section for this is to ensure that the modifications, in case the NCLT extends or amends an agreement under Section 242, are legally binding. Also, it prevents the reappointment of those removed by the Tribunal without its explicit permission to serve again.

Section 244:¹¹

This section defines the eligibility criteria for filing a petition under Section 241. Shareholders with at least 10% of the issued share capital or 100 members, whichever is lower, can apply. For companies without share capital, one-fifth of the total members can seek relief.

Section 245:¹²

In this section, provision is made for class action suit that will allow shareholders or depositors to jointly bring a case against the company to protect their interests which they think has been prejudiced by the action of the company. This allows them to claim for damages which result

⁷ The Companies Act*, No. 1 of 1956, § 402, India Code (1956).

⁸ The Companies Act, No. 18 of 2013, § 241, INDIA CODE (2013).

⁹ The Companies Act, No. 18 of 2013, § 242, INDIA CODE (2013).

¹⁰ The Companies Act, No. 18 of 2013, § 243, INDIA CODE (2013).

¹¹ The Companies Act, No. 18 of 2013, § 244, INDIA CODE (2013).

¹² The Companies Act, No. 18 of 2013, § 245, INDIA CODE (2013).

from mismanagement or oppression.

Section 246:¹³

The section extends to proceedings brought under sections 241 and 245, the application of the provisions of sections 337 to 341 inclusive which relate to fraudulent conduct and misfeasance. Consequently, it guarantees the responsibility of oppressive or mismanaged actions during dispute cases.

3.2 Relevant Case Law

But in a number of landmark cases, oppression and mismanagement has been interpreted thusly:

1. Shanti Prasad Jain v. Kalinga Tubes Ltd:¹⁴

The Supreme Court clarified that oppression must involve a continuous pattern of misconduct, indicating that a single act may not suffice to establish a case of oppression.

2. Getit Infoservices Pvt. Ltd. v. A.S. Raghunathan:¹⁵

The mere violation of articles of a company does not invariably found oppression but requires there to be conduct that is ongoing with intent.

3. Sidharth Gupta & Ors v. M/s. Sidharth Gupta & Ors:¹⁶

The Court pointed out that in order to avoid oppression base, management changes should be consistent with justified bases.

4. Facts of the Case

Background

In 2017, a significant rift emerged between Vikram Bakshi, the Managing Director of CPRL, and McDonald's India Private Limited (MIPL).¹⁷ Tensions escalated to the point where McDonald's shuttered 43 of its 55 offices in Delhi, prompting Bakshi to seek redress through the NCLT. The primary contention revolved around the management of CPRL, the joint venture entity, and Bakshi's position within it.

Joint Venture Agreement (JVA)

The relationship between Bakshi and MIPL was governed by a Joint Venture Agreement (JVA),

¹³ The Companies Act, No. 18 of 2013, § 246, INDIA CODE (2013).

¹⁴ Shanti Prasad Jain v. Kalinga Tubes Ltd., 1 SCR 115 (India 1965).

¹⁵ Getit Infoservices Pvt. Ltd. v. A.S. Raghunathan, 4 SCC 700 (India 2014).

¹⁶ Sidharth Gupta & Ors. v. M/s. Sidharth Gupta & Ors., 232 DLT 488 (India 2016).

¹⁷ K. Balakrishnan, Corporate Governance in India: A Comprehensive Guide (LexisNexis 2017).

which stipulated various provisions regarding the management of CPRL.¹⁸ Key aspects of the JVA included:

Board Composition: The board was to consist of four directors, with Bakshi appointing two directors and MIPL appointing the other two.

Managing Director Appointment: Section 7(e) of the JVA provided that the “Partner” (Bakshi) would be eligible for re-election as Managing Director every two years, provided he met certain conditions, including residency in the National Capital Region (NCR) and ownership of at least 50% of the shares.

Termination Clause: Clause 32 outlined that if Bakshi were terminated from his position, MIPL had the right to buy his shares.

Events Leading to the Dispute

After an arduous first phase, tension picked up as profits started to do the same. According to Bakshi, MIPL coerced him into selling his shares at a valuation far lower than market value.

2007-08 Pressures:

In 2007-08, when profits did start to materialize, MIPL tried to bully him to sell his shares for USD 5 million, while he contested refusing to sell for anything less than USD 100 million, Bakshi reported.

2013 Dismissal:

In 2013, Bakshi was dismissed as Managing Director under suspicious circumstances with charges of misconduct, such as embezzlement and incompetence. But Bakshi argued that he had been allowed no chance to defend himself from these charges.

In response to this, Bakshi complained to the NCLT that MIPL is oppressing and mismanaging him. Reinstating as Managing Director, he contended that MIPL's actions amount to breach of the provisions of Companies Act.

5. Arguments

Arguments by Vikram Bakshi

- 1. Oppression and Mismanagement Claims:** Bakshi contended that MIPL's attempts to force him to sell his shares and the dismissal from his position constituted oppression under Sections 397 and 398 of the Companies Act.¹⁹ He reasoned that the commission

¹⁸ R. Singh, Corporate Governance and Minority Shareholder Rights: The Indian Perspective, Indian Journal of Corporate Law (2018)

¹⁹ The Companies Act, 1956, §§ 397, 398, 402 (India).

was originally for ulterior motives to seize his ownership and control.

2. **Violation of JVA:** According to him MIPL has not upheld the JVA stipulations regarding re-election process and has also violated his rights as a partner of the joint venture.
3. **Public Interest Considerations:** Bakshi went as far as to claim that actions by MIPL had not only ruined him, but also ruined the employees at the franchise, and that corporate governance affects job security in general, as well as welfare in a community.

Arguments by McDonald's India Private Limited:

1. **Jurisdictional Claims:** MIPL contended that the NCLT did not have jurisdiction over the subject matter because in essence this was a matter of contractual dispute which was subject to the arbitration clause in the JVA. They claimed that issues of oppression and poor management could not be adjudicated in such context.
2. **Allegations of Misconduct:** MIPL defended Bakshi's dismissal by referencing allegations of misconduct, claiming that his actions justified the decision to terminate him.²⁰ That, they said the claims of oppression were unfounded and the NCLT should not be moved into what they considered as an internal company affair.
3. **Separation of Contractual and Statutory Rights:** The JVA MIPL argued that the provisions of JVA have not been integrated into Articles of Association of the companies, thus the jurisdiction of enforcing the JVA was beyond Companies Act. Bakshi contended that they were restrained to the contractual terms of the JVA insofar as recourse should be had.

6. NCLT Decision

Having gone through the argue and evidence by both parties, the NCLT made a significant ruling in favor of Vikram Bakshi. The Tribunal found that:²¹

1. **Oppressive Actions Established:**

NCLT found that actions taken by MIPL were ones of oppression to a minority share holder, that is Bakshi. The Tribunal held that to force Bakshi to sell his shares and thereby dismiss him was not in accordance with equity and fair dealing.

²⁰ A. Sharma, The Role of NCLT in Corporate Governance: A Study of Recent Cases, Journal of Business Law and Ethics (2019).

²¹ A. Sharma, The Role of NCLT in Corporate Governance: A Study of Recent Cases, Journal of Business Law and Ethics (2019).

2. Jurisdiction Affirmed:

It was held that the Tribunal had a jurisdiction to entertain matters relating to oppression and mismanagement under the Companies Act and dismissed the MIPL's jurisdictional claims. According to the Tribunal, statutory rights extinguish contractual rights in this area.

3. Reinstatement Ordered:

On the other hand, the NCLT, while positioning itself as the protector of minority shareholders, ordered Bakshi's return as the Managing Director of CPRL. Furthermore, the Tribunal further ordered MIPL to abide by the terms of the JVA and protect Bakshi's right as a partner.

7. Analysis

The ruling in *Vikram Bakshi v. McDonald's India Private Limited* has far-reaching implications for corporate governance in India.²² However, it brings out an essential concern for companies, especially companies in the form of joint ventures, to live up to the principles of fairness, transparency and accountability in conducting their operations.

1. Strengthening Minority Rights:

The case confirms the rights of minority shareholders, and hence the need for legal protection against oppressive actions. Finally, this ruling is a nice reminder to the companies that they have to take care of all the stakeholders and their governing processes have to be based on the principles of equity.

2. Judicial Oversight:

This speaks to a wider trend of judicial activism over corporate governance where the NCLT is willing to intervene in matters relating to oppression. In affirming its jurisdiction, the Tribunal reinforces the judiciary's role as a scout of shareholder rights and moral business notion.

3. Corporate Culture and Ethics:

However, the case stresses the emphasis of having a sturdy corporate culture that first and foremost promotes the elements of governance and making ethical decisions. It is essential for companies to acknowledge that their prosperity relies on the manner they treat all the stakeholders such as employees, customers, and shareholders.

²² S. Mukherjee, *The Law of Companies in India: An Overview* (Universal Law Publishing 2015).

8. Future Directions for Corporate Governance in India

Beyond the case itself, this ruling is important in terms of the implication for corporate governance in India. The following strategies should be considered by companies.

1. Strengthening Governance Frameworks:

Companies also need to invest in creating strong governance frameworks that set out a clear process for making decisions, resolving conflict and engaging with shareholders. This will involve setting up structures for hearing of complaints and better operational transparency.

2. Fostering Open Communication:

By exchanging ideas between shareholders and management open dialogue can be encouraged, therefore preventing misunderstandings and conflicts. There is also a need to hold regular shareholder meetings and consultations for cases of constructive engagement where the minority voices may be heard.

3. Educating Stakeholders:

We must educate the stakeholders to educate about their rights and obligations to within the structure of the company. By raising awareness on the principles of corporate governance, minority shareholders would be able to put their rights to the test and fight for equitable treatment towards them.

4. Corporate Social Responsibility:

Corporate social responsibility (CSR) integration into the business model can facilitate stakeholder relationship and goodwill towards the community. Companies therefore should acknowledge that their influence is on a much larger scale than just the profits they consequently generate and do their part to give back to their society.

9. Conclusion

The case of Vikram Bakshi v. McDonald's India Private Limited is a landmark event in the arena of Indian corporate governance, depicting the fine line that must be straddled by the majority and minority shareholders of a joint venture. NCLT's draws a very important lesson that fairness, transparency and ethical manner should be in the domain of corporate governance beyond mere legal compliance.

The reinstatement of Bakshi as Managing Director by the Tribunal simultaneously solves grievances at the individual level but also creates a precedent on how minority shareholders

can claim reliefs from oppression by majority stakeholders. This case has the signal to corporations that the judiciary is vigilant in protecting the rights of shareholders and is aimed at reducing the oppression and mismanagement by bolstering the jurisdiction of the NCLT in this regard.

In addition, this ruling has far reaching consequence for corporate landscape of India. Long term success necessarily requires companies to acknowledge the reality that how they implement governance practice and deal with all stakeholders is central to their long term success. In order to sustainably grow and manage reputation, a corporate culture that values ethical decision- making and equitable treatment must be built.

But not for the reason proposed by Rajan; this case also shows the need for companies, especially those who enter into joint ventures, to reassess their governance frameworks. Due to the possibility of several disputes, especially in complex ownership structures, clear, transparent policies need to be addressed promoting open communication and equitable treatment between all the shareholders. Addressing the concerns of the minority shareholders proactively can help companies to reduce the risks of legal disputes and create a peaceful corporate environment.

In conclusion, the *Vikram Bakshi v. Accordingly*, the case study McDonald's India Private Limited can be considered as a clarion call for improved corporate governance in India. Hence, it prompts companies to take a holistic approach towards legal compliance as well as ethical principles, and to ensure that all stakeholders, regardless of percentage stake hold, have a say in the company management. Thus, in doing so, not only are they preserving the integrity of their business operations, but are also adding significant positive value to the greater economic landscape by engendering trust and confidence among their investors, employees and the broader community at large. Surely, this ruling will provide the lessons that will speak volumes during the future corporate governance discussions, making people realize the equal treatment and accountability towards excelling in the business.