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**CASE COMMENT: NEEDLE INDUSTRIES (INDIA) V. NEEDLE INDUSTRIES NEWHEY HOLDING LTD.**- Devansh Singh<sup>1</sup>**ABSTRACT**

The issue of ‘Oppression’ and ‘Mismanagement’ of minority shareholders by majority shareholders has always emerged as a universal problem in the whole corporate sector. In this contemporary era, this issue is not only prevalent in India but all over the world. Whenever the question of ‘Oppression’ and ‘Mismanagement’ comes before the court of law for decision, the courts generally interpret these terms in their own manner depending upon the facts and circumstances of each case as these terms have not been defined under any of the statutes. However, the Indian legislatures and the various courts of India tried their level best to define the concept of oppression, but they couldn’t succeed in it. In India, the terms ‘Oppression’ and ‘Mismanagement’ have been interpreted by the Indian courts as **“lack of probity or fair dealing with a member in the matter of his proprietary or legal rights as a shareholder.”** Therefore, through the Landmark case of Needle Industries in 1981, the issue of ‘Oppression’ and ‘Mismanagement’ became clear to a very great extent. The case highlighted the duties and obligations of the director in the company’s interest under Section 397, 398 r/w 402 of the Companies Act, 1956 in protecting the company's welfare. Thus, till date, this case of Needle Industries (India) vs *Needle Industries Newey (India) Holding Ltd.* has been deemed as the most relied on authority vis-à-vis ‘Oppression & Mismanagement’, respectively.

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## INTRODUCTION

The said case *Needle Industries (India) vs. Needle Industries Newey (India) Holding Ltd.*<sup>2</sup> is regarded as one of the most important Landmark judgments of the Supreme Court of India when it comes to corporate law. In this case, the concept of ‘Oppression’ and ‘Mismanagement’ with regard to company affairs in the corporate sector was discussed in a detailed and prescribed manner by the Hon’ble Supreme Court of India.<sup>3</sup> In brevity, the case was amongst the foreign majority shareholders and the Indian minority shareholders of the company and was first instituted in the Madras High Court in 1977, which subsequently went to the Apex Court in appeal. As we all know that in this contemporary era, the present corporate world suffers a lot in the disputes of the shareholders. Therefore, the allegations, which are made against the majority shareholders by the minority shareholders have now become a matter of concern and a serious issue, which takes place almost every day in almost every courtroom worldwide. In India, there are various laws, which are allocated for several remedies and reliefs with respect to ‘Oppression & Mismanagement’ through the Indian Companies Act, 2013, respectively. Sections 241 to 246 of the Companies Act, 2013<sup>4</sup> primarily deals with the aspect of oppression and mismanagement against members of companies incorporated in India. Here, it is pertinent to note that despite having such laws regarding the same, then also it becomes a matter of debate that how much they’re effective in nature. If we specifically talk about the concept of ‘Oppression and Mismanagement’ as a whole, it is no more a new concept now, but it is said to be an evolving concept. Since both these terms have not been defined exactly under the Companies Act, 2013, therefore, whenever any sort of case in relation to this comes before the court of law, the court usually, by their discretionary powers, interprets these terms in their own manner to decide upon the matters as it was done in this particular case as well.

So, in short, we can say that in some way or the other, this case of Needle Industries acted as a stepping stone in the field of commercial law and by this judgment, the Supreme Court of India

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<sup>2</sup>Needle Industries (India) v. .Needle Industries Newey (India) Holding Ltd.,AIR 1981 SC 1298.

<sup>3</sup>Civil Appeal no. 25 of 1977 (decided on May 7, 1981) Available at: <https://thecompany.ninja/needle-industries-india-v-needle-industries-newey-india-holding-ltd/>.

<sup>4</sup>The Companies Act, 2013, ss. 341-346.

made it very clear that when it comes to the interest of the company, no one can say that he/she is above it (shareholders) whether majority or minority. In this way, this particular Landmark judgment became an example for the company law's future in India.

### **FACTUAL BACKGROUND OF THE CASE**

- The facts of the case are that the Appellant Needle Industries Newey (India), based in the United Kingdom (UK), a Holding Company (foreign majority shareholders) filed a suit against Respondent Needle Industries India Ltd., which was the subsidiary of that Holding Company (Indian minority shareholders) under Section 397 & 398 of the Companies Act, 1956 on the ground of 'oppression' against them.
- The Holding Company had majority shares with themselves and it was settled between the Holding Company and NIIL that when the FERA<sup>5</sup> will be passed, the NIIL will be reducing the non-resident shareholding percentage from 60% to 40% within one year's time period, which was held by the Holding Company.
- The Managing Director of the NIIL, Mr. Devagnanam in this regard came forward with the proposal that the excess shares can be issued to the existing Indian shareholders only, but it was subsequently refused by the Holding Company.
- According to the facts available on record, in this case, what actually happened was that the NIIL (Indian minority shareholders) basically issued rights shares to its existing Indian shareholders at a much lower price as compared to the market price without properly coordinating with the Holding Company. This resulted in the Holding Company becoming a minority group, and due to this reason, the Holding Company filed a suit against NIIL by alleging Devagnanam and NIIL for the 'acts' of oppression and mismanagement.
- The Holding Company alleged that both NIIL and Devagnanam had purposefully held the Annual General Meeting without properly coordinating with the Holding Company so that the extra shares can be issued to the existing shareholders by which they can be benefited, and it would ultimately result in Devagnanam having an upper edge over the company.

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<sup>5</sup>The Foreign Exchange Regulation Act, 1973.

- On this pretext, the Holding Company also contended the appointment of Silverstone as an additional director and his post to be an "independent " director in the Annual Body Meeting where the question of rights shares was decided.

So, to summarize, the said case was first instituted in the Madras High Court in 1977, where the court said that the 'acts' of NIIL were 'oppressive' as the rights to the shares were kept very low and hence were sold at a very low price.<sup>6</sup>Moreover, the court asked the NIIL to make up for the losses of the Holding Company. Furthermore, the Managing Director of NIIL was removed from his post, and an interim board member was appointed in his place. The case subsequently went to the Apex Court for appeal in 1981. Therefore, the case basically dealt with the conflict where the Indian directors acted in a malafide way in the company without properly coordinating with the Holding Company by holding General Meeting regarding rights shares in the company.<sup>7</sup>

### ISSUES INVOLVED

1. Whether the Act of NIIL by issuing rights shares at a cost much lesser than the market value to the existing shareholders only comprised an act of "Oppression" against the Holding Company under Section 397 of the Companies Act, 1956?
2. Whether there was an abuse of fiduciary powers by the Indian shareholders, and whether the appointment of Silverstone as an Additional Director in the Annual General Meeting was valid or not?
3. Whether the court can decide the case where there were allegations of malafides and abuse of fiduciary powers solely based on affidavits and no oral evidence?

### ARGUMENTS ADVANCED BY THE APPELLANTS

- Shri Nariman, the learned counsel for appellants, argued that there, no case of 'oppression' can be made out against the Indian shareholders. The main reason being that the company had to take the quick decision as early as possible because the time period which was

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<sup>6</sup>Rachit Bansal, Case Comment: Needle Industries (India) vs Needle Industries Newey (India) Holding Ltd., Available at: <https://blog.iplayers.in/case-comment-needle-industries-india-ltd-vs-needle-industries-newey-india/>.

<sup>7</sup>M. Rishi Kumar Dugar – Article on "Minority Shareholders buying out Majority Shareholders (An Analysis), Available at: <http://docs.manupatra.in/newsline/articles/Upload/3AFDCE22-7A59-4514-BDCF-9CA926784AC9.pdf>.

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given by the Reserve Bank of India (RBI) was about to get over. Moreover, the decision was taken in view of the company's best interest. Furthermore, Shri Nariman added that the Holding Company not only refused to issue the rights of shares to the Indian shareholders but also did not put forward any plans regarding the reduction of its share percentage. So, the NIIL was left with no option but to proceed forward in saving the company in the best possible way.

- The counsel for appellants contended that if the Indian directors, in some ways or the other, have affected the rights of the Holding Company due to which they became a minority group while thinking about the best of the company, then it does not mean that the decisions taken by them were unconstitutional and questionable. According to him, the Holding Company had been given the option to disinvest or to agree upon the offer of rights shares, but the Holding Company did not agree to this, and hence it has lost its claim to say that the directors must not issue right shares to the Indian shareholders.
- Shri Nariman, on the appointment of Mr. Silverstone, contended that as he was just acting as an advisor to the Indian shareholders only, that does not simply mean that he was biased. According to him, he acted as a solicitor to the best of his abilities. According to Section 299 of the Companies Act, a director is said to be an interested party, and he should disclose his/her object of interest.<sup>8</sup> Here, Mr. Silverstone had only friendly relations with the Indian directors and had no interest of his own. Hence, it showed no bias towards them.
- Nariman also contended that Sanders had been asked to attend the meeting on the 6<sup>th</sup> of April, but he failed to attend due to which Devagnanam appointed Mr. Silverstone as an independent director as he had no other option left to meet the quorum and proceed with the meeting.
- The learned counsel for appellants further argued that as per the "Company Court Rules"<sup>9</sup>, all the petitions including Section 397 of the Companies Act should be heard in an open court [Rule 11 (12) & Rule 12(1)]. The procedure and practice of the court and

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<sup>8</sup>The Indian Companies Act, 1967, ss. 299.

<sup>9</sup>The Companies (Court) Rules, 1959.

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of the Code of Civil Procedure, 1908 are applicable to such petitions. According to Order XIX Rule 2 of the aforesaid Code, a party can request the court for the submission of an affidavit for cross-examination.<sup>10</sup>In this regard, Shri Nariman asserted that as per the abovementioned provision, Devagnanam was not cross-examined in the Trial Court. Since Devagnanam only had full knowledge of the events that occurred, in such a case, his conduct and intentions should have been questioned in a cross-examination. Here, it is pertinent to note that when a grave allegation is made against any person who puts his position in jeopardy, then such allegation cannot be merely based on affidavits, and hence, there is a need of oral evidence. In this regard, there were various cases cited by him in order to support his argument like the *Nanalal Zaver vs. Bombay Life Assurance*<sup>11</sup> and *Plexcy vs. Mills*.<sup>12</sup>

#### ARGUMENTS ADVANCED BY THE RESPONDENTS

- Shri Seervai, the learned counsel for respondents, argued that the decision, which the NIIL took regarding issuing rights shares to only Indian shareholders that too at a much lesser market price could be considered as an act of oppression against the Holding Company. The learned counsel argued that the Managing Director of the NIIL, Mr. Devagnanam had his personal interest behind it to take such type of decision as he wanted to have an upper edge over the company. As far as the previous meetings between the parties were concerned, the counsel in this regard asserted that the Holding Company would not have denied giving up 20% of shares, but they were only against the method proposed by Devagnanam. But since Devagnanam wanted to have an upper edge over the company, he proceeded with his decision. The counsel also asserted that an application could have also been sent by the NIIL to the Control of Capital Issues for the fixation of the share prices to be at par with the market value, but it did not ultimately mark the shares at a much lesser price. Moreover, it was added that the Holding Company was also not given enough time to attend the General Body Meeting, and Shri Seervai contended

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<sup>10</sup>The Code of Criminal Procedure, 1973.

<sup>11</sup>*Nanalal Zaver vs. Bombay Life Assurance*, AIR 1950 172.

<sup>12</sup>*Plexcy vs. Mills*, AIR 1920 1 ch 77.

that the appellants could have filed an application for the extension of the time period from the RBI as this would have helped the Holding Company to attend the meeting and also to prevent the NIIL.

- The counsel for respondents further said that the main aim of the issue of rights shares by the Indian Directors was to convert the majority shareholders, i.e., Holding Company, to a minority. Therefore, the arguments, which are made by the learned counsel for the appellants with regard to the company's best interest will be futile here. The counsel stated that the best interest of the company always lies in the majority of votes. Since the majority of the votes were missing in the General Body Meeting, thus, the meeting proved to be futile. Therefore, the outcome of the meeting was that the rights shares must only be issued to Indian shareholders only.<sup>13</sup>
- Shri Seervai also argued about the appointment of Silverstone as an additional director. He stated that in the Annual General Meeting, there was no agenda for the appointment of an additional director. He said that Mr. Silverstone was appointed as an independent director in the meeting where the issue of rights shares was being discussed. As per Section 300 of the Indian Companies Act, a director cannot become a part of any meeting of which he/she has a direct concern or interest. So, here, Silverstone was an interested person as previously he was an advisor to the Indian shareholders, and therefore, he would be biased in judging any issues between the Holding Company and NIIL. Since he was directly interested in the rights shares, the meeting that had taken place on 6th April with Silverstone being an "independent" director must be declared null and void.
- Lastly, the counsel argued that when the petition was argued in the Appellate and Trial Courts, both the parties had agreed to proceed with the case based on affidavits and documents, and no request for the trial was made by the parties. However, from the affidavits, it was very clear that the intentions were malafied. Apart from it, the learned counsel in reference to the cases cited by the appellants said that just because several similar cases were decided on oral evidence, does not imply that all such cases must be decided in the same manner as it is.

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<sup>13</sup>Mukul Mishra, Case comment: Needle Industries (India) vs Needle Industries Newey (India) Holding Ltd., Available at: <https://pdfcoffee.com/case-comment-on-needle-industries-case-pdf-free.html>.

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## SUMMARY OF THE JUDGMENT

- ❖ The judgment of the case was delivered by the Hon'ble Supreme Court of India on 7th May 1981 by the then Chief Justice of India, Shri Y.V. Chandrachud. The main issue, which emerged before the court through this case was that of the 'Oppression & Mismanagement' with regard to minority and majority shareholders and about the intentions of the directors vis-à-vis the best interest of the company.
- ❖ The Apex Court after taking into consideration, the facts of the case along with the issues involved in it, and by listening to the various arguments, which were put up by the appellant's and respondent's counsel before the court came to the conclusion that the alleged acts of the minority shareholders do not amount to "Oppression."
- ❖ In this regard, the court primarily focused upon the term 'Oppression' in relation to shareholders and elaborated it in a detailed and prescribed manner.
- ❖ With reference to the meaning of 'Oppression' provided under Section 397 of the Companies Act, the court in this regard pointed out that an isolated Act could not be regarded as 'Oppressive' against the law unless and until there is the presence of malafide intention in it. Thus, whenever any person alleges oppression against the other, then he/she must prove that as to how oppression made him/her compromise on his/her decision and surrender to an unfair act, which lacked integrity. Hence, if a director acted carelessly and inefficiently while discharging duties in the company, then it cannot be said to give rise to oppression.
- ❖ Moreover, the court added that in order to find the 'acts' of oppression in the company, every court must consider the facts and circumstances of the cases in a broader aspect along with the intention of the parties. Thus, when the acts committed are in favor of the best interest of the company, then that particular act is no more oppressive.
- ❖ Hence, the Hon'ble Supreme Court of India gave the judgment in favor of the minority shareholders and held that the acts of NIIL with respect to issuing shares to its existing shareholders did not amount to oppression as such acts were performed keeping in mind the best interest of the company and were complied with the provisions of the Foreign Exchange Regulation Act, 1973.

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- ❖ Furthermore, the Hon'ble Apex Court ensured substantial justice to the majority shareholders who had incurred huge losses due to the acts of the minority shareholders in the company.
- ❖ As far as the interest of the directors vis-à-vis interest of the company were concerned, the Hon'ble Supreme Court of India in this pretext held that whenever any of the directors in the company takes a decision in the company keeping in mind the best interest of the company, and if from that particular decision, the director earns some profit of it, then it cannot be inferred and upheld that the directors always have malafide intention behind it in doing so.
- ❖ The court further reiterated the principle of the “**Rule of Proper Purpose**”<sup>14</sup> with respect to the duty of the directors in the best interest of the company. The said principle is based upon the common law system. The court used this principle in this *Needle Industries* case and held that when it comes to the interest of the company as a whole, no one can say that he/she is above it (shareholders), whether majority or minority.

## ANALYSIS OF THE JUDGMENT

The case *Needle Industries (India) vs. Needle Industries Newey (India) Holding Ltd.*<sup>15</sup> comes under one of those most important Landmark Judgments of the Supreme Court of India, which has set the path for the future of the company law, and for all the shareholders who work under various companies. This judgment broadly covered and dealt with the interpretation of “Oppression & Mismanagement” along with the rights of minority and majority shareholders in the company. Moreover, it focused upon the intentions of the directors with regard to the best interest of the company. The main essence of the whole judgment was based upon the interpretation of the word ‘Oppression’, which is provided under Section 397 of the Indian Companies Act, respectively. As far as interpretations of terms like “Oppression & Mismanagement” were concerned, the Hon'ble Supreme Court of India basically consulted and referred to the various precedents relating to the said concept and looked upon it in a very

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<sup>14</sup>Gurpreet Singh, Proper Propose Rule: An Explainer, Available at: <https://blog.iplayers.in/proper-purpose-rule-an-explainer/>.

<sup>15</sup>*Ibid.*

sensitive manner with respect to the concerned subject matter. In the case of *Seth Mohanlal Ganpatram vs. Sayaji Jubilee Cotton & Jute Mills Co. Ltd.*<sup>16</sup>, the court said that whenever any director of the company passes an oppressive resolution, then it is not the hard and fast rule that the said resolution is against the law. Thus, if such an oppressive resolution is not against the law, then in that case, it can be passed for the best interest of the company. Similarly, in the case of *Shanti Prasad Jain vs. Kalinga Tubes*<sup>17</sup>, the court was of a similar opinion and said that when the allegations of oppression are made against the members of the company, then it is not more than enough to show only one act or the separate one, which comprised of oppression. If we specifically talk about the Needle Industries case, here, the judges of the Supreme Court mainly relied upon *Halsbury's Laws of England* to find out the meaning of 'Oppression' as an act, i.e., "harsh, burdensome, and wrongful." On the other hand, as far as the intentions of the directors with regard to the best interest of the company were concerned, here, the Hon'ble Supreme Court of India primarily referred to the ruling of *Hogg vs. Cramphorn Ltd.*<sup>18</sup>, where the court held that when a director of a company issues shares from preventing the majority from exercising power, then it does not always imply that the powers used by the directors was for him to get an upper edge over the company and but for the best interest of the company. So, when directors of the company act in good faith for the best interest of the company, and by mistake, if they get any benefit from it which he/she had not done intentionally, then in that case, they would not be held liable for committing fraud. Lastly, through this judgment of Needle Industries, the Hon'ble Supreme Court of India diluted the old age principle of majority rule, which was in earlier times used to be considered as a pillar of company laws. The court, after considering the relevant precedents, listening to both the counsels, finally came to a conclusion and held that the statutory obligation of the court under Sections 397/398 r/w Section 402 of the Indian Companies Act is only to protect and safeguard the interest of the company.

## SUGGESTIONS/OPINIONS EXPRESSED

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<sup>16</sup>Seth Mohanlal Ganpatram vs. Sayaji Jubilee Cotton & Jute Mills Co. Ltd., AIR 1964 HC 644.

<sup>17</sup>Shanti Prasad Jain vs. Kalinga Tubes, 1965 AIR 1535, 1965 SCR (2) 720.

<sup>18</sup>Hogg vs. Cramphorn Ltd., [1967] Ch 254.

There are several opinions and suggestions, which were expressed by the Bench of the judges via this particular Landmark judgment. During the time of the hearing of this subject matter in the court, the Bench of the judges who were dealing with the issue of the said case observed and pointed out certain common instances where these types of events occur amongst the companies and its shareholders in day-to-day lives. The court was basically of the opinion that if we talk about the interest of the company as a whole, generally, we often see that the directors who all are working under the companies face a lot of humiliations by the shareholders with respect to oppression. The allegations of oppression are made against them by the shareholders without giving valid reasons with an intention to let them down. The court highlighted and reiterated the fact that all the directors who work under various companies do not have any personal or vested interest in it. The main objective is to work to the best of their abilities for giving benefits to the company. Thus, the court suggested that it cannot be concluded and interpreted that the directors of the company only use their powers to get an undue advantage in the company and not for the benefit of it at large. Hence, with the case of *Needle Industries*, the Hon'ble Supreme Court of India made it very clear that whenever a director of the company exercises its authority over the company for allocating it benefit without having a malafide intention in it, then in that case, he/she would not be entitled to any kind of oppression and will not be held liable for committing the offence of fraud.

## CONCLUSION

The case of *Needle Industries vs. Needle Industries Newey (India) Holding Ltd.*<sup>19</sup> is said to be one of the most important Landmark judgments of the Supreme Court of India under company/commercial/corporate law. In this case, the Hon'ble Apex Court of India primarily focused upon the obligations of the directors in the best interest of the company under Section 397, 398 r/w Section 402 of the Companies Act, 2013. The court basically dealt with the issue of the protection of the company's welfare. This Landmark judgment of the Supreme Court of India has its own significance in the whole corporate sector. Here, it is pertinent to note that through this case only, the Hon'ble Supreme Court of India reached the goal of defining the terms like 'Oppression and Management' in a detailed manner, which subsequently resulted in the case

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<sup>19</sup>*Ibid.*

becoming an example for the company law's future in India. In India, if we talk about the company laws specifically, there are some laws that either have been amended or there are some, which have been completely repealed by the legislatures. Therefore, with the incorporation of the new Companies Act (2013), all the provisions in the Act relating to oppression and mismanagement have been modified and have been made with an aim for protecting and safeguarding the keeping in mind the interest of the shareholders in the company by the legislatures. Thus, we can say that the Companies Act is being amended from time to time to incorporate the latest provisions to protect the interest of the shareholders. Therefore, till date, this particular judgment of the Apex Court has been deemed to be the most relied on authority with respect to 'Oppression & Mismanagement', respectively.



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