

## **NCLAT's Order - Reinstating Cyrus Mistry**

### **Why in news?**

The National Company Law Appellate Tribunal (NCLAT) reinstated Cyrus Mistry as Chairman of Tata Sons and Director of the Tata Group of companies for the remainder of his tenure.

### **Who is Cyrus Mistry?**

- Cyrus Mistry, son of Pallonji Mistry, is the owner of Shapoorji Pallonji group and the biggest stakeholder in the Tata group.
- Mistry was the sixth chairman of Tata Sons and had taken over in 2012 after Ratan Tata.
- Relations were seen as amicable between Mistry and Tata.
- However, after differences of opinions with group patriarch Ratan Tata, Mistry was ousted as both Chairman and Director in October 2016.
- This was done in a surprise move by the Tata Sons board.
- Mistry later moved the National Company Law Tribunal (NCLT).
- The Mumbai bench had upheld Mistry's removal from his positions at Tata Sons and other Group companies.

### **What is NCLAT's decision?**

- The appellate tribunal, NCLAT held Mistry's sacking and the subsequent appointment of N Chandrasekaran to the top post at Tata Sons illegal.
- The move to take Tata Sons private has also been declared illegal and reversed.
- NCLAT set aside the 2017 order by the Mumbai bench of the NCLT.
- The current NCLAT order included directions on several major questions of corporate governance.
- Article 75 of the Articles of Association of the Tata Group grants Tata Sons the right to transfer the 'ordinary shares' of any shareholder.
- This can be done bypassing a special resolution in the presence of nominated directors of Tata Trusts.
- The NCLAT has barred Tata Sons from taking any action against Mistry, Shapoorji Pallonji, Cyrus Investments, and other minority shareholders under this provision.
- It also directed Tata Sons to consult all its minority shareholders before

making any appointments in the future.

- These include for the post of Executive Chairman, Independent Director, and Director on the boards of Group companies.

### **How will it benefit?**

- The NCLAT direction will empower the minority shareholders.
- Also, it will force Independent Directors to take their objections more seriously.
- One of the functions of Independent Directors is to safeguard the interests of all stakeholders, particularly the minority shareholders.
- The Code for Independent Directors, which is part of The Companies Act, 2013, specifies this.
- The directive will also give a boost to the Shapoorji Pallonji Group, which is owned by the Mistry's family.
- The group, although a minority shareholder (18%), is still the biggest outside shareholder in Tata Sons, the holding company of the Tata Group.

### **What next?**

- Although the NCLAT passed an order restoring Mistry to the top position, the execution of the order has been suspended for 4 weeks.
- This will allow the Tata Group to challenge the NCLAT decision before the Supreme Court.
- However, barring the direction to reinstate Mistry, the NCLAT has not stayed the execution of any of its other directions.
- This means Mistry will be immediately restored to his position as Director on the boards of at least three Tata Group companies.

### **What are the likely implications?**

- The NCLAT decision will undoubtedly cause ripples of uncertainty through the Tata empire and the broader corporate sector.
- The decision will be implemented after 4 weeks, giving time to the Tata group to contest it. However, the charges are serious:
  - i. oppression of minority shareholders (the Shapoorji Pallonji group is one of them)
  - ii. mismanagement at Tata Sons
  - iii. undue haste in removal of Mr Mistry as chairman
- If the NCLAT judgment is upheld by an appropriate forum, several critical decisions taken by the new management will come up for scrutiny.

**Source: Indian Express**

## Quick Fact

### NCLAT

- The NCLAT was constituted under Section 410 of The Companies Act, 2013.
- It was tasked to hear appeals against the orders of the NCLT(s).
- It is also the appellate tribunal for orders passed by -
  1. the NCLT(s) under Section 61 of the Insolvency and Bankruptcy Code (IBC), 2016,
  2. the Insolvency and Bankruptcy Board of India (IBBI) under Sections 202 and 211 of the IBC

