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The basic objectives of the study are 1. To examine Satisfaction level of the population regarding municipal activities 2.To examines Pollution in Tinsukia Municipality from Vehicles 3. To examine the nature of the garbage generated by the household in Tinsukia Municipality 4.To examine the impact on the society if there is degrading environmental quality. The sources of data are Both Primary and Secondary. Some simple statistics has been used for analysis purpose.

Keywords:

Environment , Satisfaction, Impact Waste, Management, Tinsukia Etc.

Abstract:-

Urbanization is now becoming a global phenomenon. The increased pace of urbanization has been posing a challenge to urban environment management. The rapid urbanization has a multiple effect on quality degradation of environment. Waste generation is an inevitable outcome of the development activities. A material becomes waste when it is discarded without expecting to be compensated for its inherent value. These wastes may pose a potential hazard to the human health or the environment (soil, air, water) when improperly treated, stored, transported or disposed off or managed. Waste management comprises of purposeful and systematic control of generation, storage, collection (from Municipal dumps, houses, offices and industrial estates), transport, sorting (where recyclables are segregated), processing, recycling, recovery & disposal of waste. Municipal Solid Waste Management (MSWM) is one of the major environmental problems of Indian cities. We have selected Tinsukia Municipal Board under Tinsukia district of the state Assam for our study. Tinsukia town is the head quarter and largest urban area in Tinsukia district with more than 1 lakh population as per Census 2001.

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ADHERENCE OF CORPORATE GOVERNANCE POLICIES WITH A SPECIAL REFERENCE TO CLAUSE 49 OF THE LISTING AGREEMENT: A CASE STUDY OF INDIAN OIL CORPORATION LTD

INTRODUCTION

Recent Financial world has seen many fraudulent activities by big corporate like WorldCom, Enron, and Satyam Computers etc. This leads the common investors in believing that the corporate leaders are working for their own benefits only. Ultimately the stake holders feel this being frustrated or felt cheated by their agents such as board members. In this process we should not forget the ultimate development and improvement in standards of living can only be possible with the help of emerging entrepreneurships or venture capitalists. There is only one solution in front of corporate to maintain utmost transparency and fairness with earnings profit ethically; as their decision has an impact on the human society. Due to this reason and also the global edge corporate family emerges a new concept named Corporate Governance (CG) to promote corporate fairness, transparency and accountability.

Also it is one of the complicated issues especially in developing countries in which there are more foreign capital inflows. Around the world many reports has been published in this context (like Cadbury report, Sarbanes-Oxley Act (SOX), OECD reports etc.). In Indian context,except some industrial safety laws, the emergence of CG may be traced to the outcome of Mehta Scam in the early 90's. The basic purpose was to protect the interest of all the stake holders who are directly or indirectly related with the corporate. CG provides a structure which will help the company in designing its mission, vision and objectives while taking care of the environment around it.

In India SEBI as the regulator of stock Market has framed a policy regarding CG popularly known as Clause 49 of the listing agreement, to protect the interest of small shareholders. This policy compels some sections of companies to be abided by the law with respect to composition of board of directors, audit committee, remuneration of independent directors and many more.

This paper provides a conceptual framework to the evolution of corporate governance and its status in India. This study also discusses the Clause 49 of the listing agreement. Again our paper analyses the adherence to CG policies of Clause 49 by taking the case study of Indian Oil Corporation ltd (IOCL).

LITERATURE REVIEW:

In last few years several studies have been made in different aspects of CG. Also many committee reports are there at different levels like The Cadbury Report (1992), The Greenbury Report (1995). Indian context three committee chaired by separately Rahul Bajaj, Kumar Mangalam Birla and Narayana Murthy had provided different recommendations on CG.

Some of the studies in the area of CG are discussed as below:

The CG structure in Asia has been criticized by Clarke (2000). The study also remarks that Asian financial crisis was partially due to poor CG practices.

Chakrabarti et.al, (2007) in their study analyzes the overview of CG system in India and they also study how Indian system is still lacking behind in practice as compare to theoretical policy. Though, India has a top CG policy but due to corruption and some other reason, it is not being properly implemented. So still the ownership is concentrated and most business group is dominated by family ownership. Recent days has seen some improvement in this for example Infosys.

Mcgee(2008) has made a study to analyze the basic principle of CG as identified by different global organizations like OECD, IMF and World Bank. The study also finds out how these principles are being practically implemented in Asian Countries. This Study found in spite of increasing corruption in India, It has a high score as compared to all other Asian countries and Vietnam has a low score as it is a new entrant to the market.

Black and Khanna(2007) make a study in Indian context to analyze the impact of CG on different aspects of corporate like Share price, stock market size and ownership concentration and its behavior. Their study concluded Clause 49 is going to be more beneficial to large size firms and somewhat to medium size firms. In their comparison between Sarbenes-Oxlay and Clause 49 they found that most of the principles are similar between these two.

Tam(2000), by making a study on state owned enterprises proposes a new CG model to fit with China's economic and Social conditions.

When it comes to Indian context very few studies have been found in respect of adherence of Clause 49 by the corporates. Our paper discusses the basic framework, importance and policies of CG in India. Further we have analyzed the CG report of the IOCL to assess its adherence to clause 49 of listing agreement.

OBJECTIVES OF THE STUDY:

The objectives of the study are as follows:

a.To discuss the conceptual aspects of Corporate Governance.
b.To highlight the mandatory and non-mandatory requirements of Clause 49 of the listing agreement.

c.To analyze the adherence of Clause 49 requirements by IOCL.

DATA AND METHODOLOGY:

The study is primarily based on secondary data. The study discusses the clause 49 of the listing agreement. Further the study analyses the report on Corporate Governance as part of 55th Annual Report published by IOCL.

CONCEPTUAL FRAMEWORK:

a.Meaning of Corporate Governance:

CG provides a framework or code of conduct within which all organizations has to work and make ethical use of available resources with proper accountability. It may be as follows:

A framework or code of conduct
Promotes fairness and transparency
Ethical use of resources
Accountability of shareholders.

b.Importance of Corporate Governance

In ancient corporate world it was believed that management is only accountable to the shareholders. Since the development of CG business world is not only accountable to the shareholders but also to all the stake holders. The growing complexities in corporate affairs, it is very important to have a code of conduct to have control over the corporates. In this context CG is the best solution to make all the corporate accountable for their activities. Especially in developing countries like India where there is more FDI and FII inflows it is very essential to maintain fairness and transparency in corporate practices. Also the Iron law of responsibility says that the corporate are making profit because the society have allowed them to make use of its resources, the companies also have to pay something in return. The small shareholder whose proportions are in some fraction in the total ownership or voting rights of the company cannot take part in proper management of the company's activities. So they have to rely on the management. Good CG practices by the companies can only help them in this situation.

c.Principles of Corporate Governance

The good CG principles should include all those factors which will help in equitable treatment of all the shareholders. They should be communicated and accessible to all the information that help them in exercising their rights. And also board of directors should exercise their right and duties properly. The organizations should frame an ethical code of conduct to be followed by all the members. The organization should disclose all its material facts transparently. The following figure shows the common principles of CG.

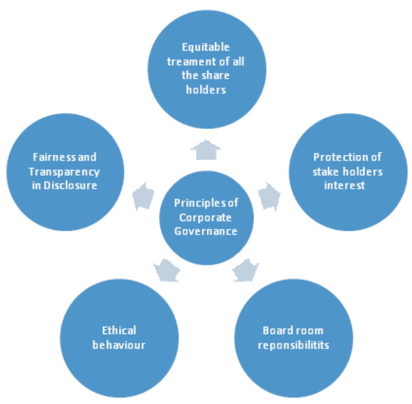

Figure 1 Principles of Corporate Governance

POLICIES OF CORPORATE GOVERNANCE IN INDIA WITH REFERENCE TO CLAUSE 49 OF THE LISTING AGREEMENT:

Except all those industrial policy for the safety of different aggrieved parties. Thefirst initiative to fix the problems of CG in India was taken with establishment of Rahul Bajaj committee for CII Code for Desirable Corporate Governance. Later on two more constituted by SEBI to look into the issue of CG in

India. In early 2000 the first committee chaired by KumarMangalamBirla that submitted its report and then after NarayanaMurthy Committee. These committee have a significant contribution to strong CG policy in India.SEBI implemented the recommendations of the Birla Committee through the enactment of Clause 49 of the Listing Agreements. They were applied to companies in the BSE 200and S&P C&X Nifty indices.

Highlights of Clause 49 of the Listing agreement in India1

I.Board of Directors

(A) Composition of Board:

Every company should have an optimum combination of board of directors. The Board of directors should consist of both executive and non-executive directors. On-executive directors should be at least fifty percent of the Board and Where the Chairman of the Board is a non-executive director, at least one-third of the Board should comprise of independent directors and in case he is an executive director, at least half of the Board should comprise of independent directors.

(B)Non-executive directors' compensation and disclosures

With the approval in general meeting of shareholders Board of Directors shall fix the fees to be paid to non-executive directors and independent directors.

(C)Other provisions as to Board and Committees

The board shall meet at least four times a year, with a maximum time gap of four months between any two meetings.

(D)Code of Conduct

Every company should post their code of conduct on their web site which has to be followedby all Board members and senior management.

II.Audit Committee

(A)Qualified and Independent Audit Committee

The audit committee shall have minimum three directors as its members. Two-thirds of the members of audit committee shall be independent directors. All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.

(B) Meeting of Audit Committee

The audit committee should meet at least four times in a year and not more than four months shall elapse between two meetings.

(C) Powers of Audit Committee

The audit commit can investigate any activity and ask for any information from any employee. If required it can seek outside expert advice also.

(D) Role of Audit Committee

The Clause 49 has given a long list of auditors role, the basic duty is look over the disclosure policy and to certify the information provided in financial statement are true and sufficient and also to give suggestion to the Board in appointments, reappointments and remuneration of independent auditor.

(E) Review of information by Audit Committee

The audit committee should review the management discussion and analysis of financial condition, results of operations, Statement of significant related party transactions and internal audit reports.

III. Subsidiary Companies

I. At least one independent director on the Board of Directors of the holding company shall be a director on the Board of Directors of a material non listed Indian subsidiary company.
ii. The Audit Committee of the listed holding company shall also review the financial Statements in particular the investments made by the unlisted subsidiary company.
iii. The minutes of the Board meetings of the unlisted subsidiary company shall be placed at the Board meeting of the listed holding company.

IV. Disclosures

(A)Basis of related party transactions
(B)Disclosure of Accounting Treatment
(C)Board Disclosures – Risk management
(D)Proceeds from public issues, rights issues, preferential issues etc.
(E)Remuneration of Directors
(F)Managers
(G)Shareholders

V. CEO/CFO certification

The CEO and CFO have to certify that financial statements and the cash flow statement for the year that it do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading.
VI. Report on Corporate Governance
The company should provide its report on compliance and non-compliance of mandatory and non-mandatory requirements in the separate section of annual report.

VII. Compliance

The company should collect a certificate of compliance of terms of corporate governance from the auditors or company secretaries.
Except the above, the clause has a given four annexure regarding corporate governance which is as follows.

Annexure I A
Information to be placed before Board of Directors

Annexure I B
Format of Quarterly Compliance Report on Corporate Governance

Annexure I C
Suggested List of Items to be included in the Report on Corporate Governance in theAnnual Report of Companies

Annexure I D

Non-Mandatory Requirements

The non-mandatory requirementsinclude Audit qualifications, Training of Board Members, Mechanism for evaluating non-executive Board Members and Whistle Blower Policy.

AN ANALYSIS OF REPORT ON CORPORATE GOVERNANCE OF IOCL WITH A REFERENCE TO CLAUSE 49 OF THE LISTING AGREEMENT.

Philosophy on CG

The value of stake holders can be maximized through ethical and efficient code of conduct and good corporate governance practices. Other requirements are explained as below:

1)Board of Directors:

The company does not able to comply with Clause 49 of Listing agreement. As on 31.3.14 there were 18 members out of which only 8 were independent and as per clause 49 there should be at least 50 percent should be independent directors.

2)Board Meeting:

As per clause 49 there should be at least four meeting in a year. During 2013-14 the company had held 13 meetings almost once in a month.

3)Code of Conduct:

As to compliance with clause 49 the company has a code of conduct also posted in the web sites. All board of directors complied with the code except one due serious medical issue.

4)Audit Committee:

The Company follows Clause 49 to constitute audit committee and also comply with companies Act (except during the period August 7, 2013 to September 2, 2013). There are 3 Independent members and it covers all the matter as required by Clause 49.

5)Remuneration Committee:

A Committee has been constituted with 5 members under chairmanship of one independent director. Out of total 5 members, 3 are independent directors. For whole time directors the remuneration is fixed by Govt. of India. All independent directors' are getting only sitting fee.

6)Shareholders/Investors Grievance Committee:

The company has constituted a Grievance Committee for redresses of grievances of shareholders and investors.

7)Other committees constituted for various purposes are given as below as reported in CG report.

a)Project Evaluation Committee
b)Corporate Social Responsibility (CSR) & Sustainable Development Committee
c)Health, Safety & Environment Committee
d)Marketing Strategies Committee
e)Establishment Committee
f)Deleasing of Immoveable Properties Committee.
g)Contracts Committee
h)Planning & Projects Committee
i)Oil Price Risk Management Committee
j)Spot LNG Purchase Committee
k)LNG Sourcing Committee

DISCLOSURES

a.Materially significant related party transactions:

The Company has not entered into any materially significant related party transactions except those disclose in F.Y.2013-14.

b. Details of non-compliance during the last three years:

The company had not been penalized by any authorities in last three years due to any non-compliance.

c. Whistle Blower Policy:

As per this policy all employees are free to report any violation of laws or improper activities by any employees.

d. Compliance with mandatory and adoption of non-mandatory requirement of Clause 49:

Except requirement of composition of board the company has complied with all the mandatory requirements of Clause-49.

Non-mandatory requirements of Clause 49 of the Listing Agreement adopted by the company:-

Constitution of Remuneration Committee
Unqualified Financial Statements
Whistle Blower Policy
Training of Board Members

e. Risk Management Policy

The risk were periodically assessed and informed to the board for its minimal.

f. CEO / CFO Certification:

Chairman and Director (Finance) of the Company have given the "CEO / CFO Certification" to the Board.

g. Integrity Pact

To enhance transparency, probity, equity and competitiveness in its procurement process, MoU has been signed with TII) in 2008 for implementing Integrity Pact (IP).

h. Relationship between Directors

None of the Directors are inter related to other Directors of the Company.

i. Guidelines on Corporate Governance by DPE

IOCL is complying with the all the requirements of the DPE Guidelines on Corporate Governance except in respect of composition of the Board of Directors with regard to 50% independent Directors.

Compliance Certificate

As per compliance certificate the Company has complied all the requirement of Clause 49 except Clause 49(I) (A)(ii) of the Listing Agreement relating to the number of Independent Directors on the Board of Directors of the Company which was less than half of the total strength of Board during the year and non-compliance of Clause 49(II) (A) of the Listing Agreement relating to composition of the Audit Committee during the period August 7, 2013to September 2, 2013.

CONCLUSION:

The present study discusses the framework of CG in India. Also our paper highlights CG policy of India. We can conclude that as a developing nation India needs a strong CG policy as it is one of major hub of cross border investment. Many financial and accounting frauds lead to development CG around the world. The SOX Act, Cadbury report and OECD principles etc. are there in different nations to control the corporate. Our country is also not been behind in framing and implementation of policies of CG. After recommendations of many committees, the Clause 49 of the listing agreement has been implemented in India. That provides guidelines starts from composition of Board of directors to reporting disclosure many corporate affairs.

Our study has given an overall idea about various regulatory and voluntary requirements of clause 49. Further in our study we analyze the report on CG of IOCL to assess its adherence to the principles of clause 49. We conclude the overall adherence of IOCL to clause 49 is good. Except the composition of board of directors and audit committee the company has followed all requirements of clause 49. Also the company frames various committees to serve different purposes. The company has a code of conduct which has been followed by all (except one director due to medical case). Along with mandatory requirements the company also fulfills many non-mandatory requirements like whistle blower policies and training of board members etc.

Though the theoretical aspects Indian CG policy is strong one, still it lacks proper implementation. Our study suggests clause 49 should be mandatory for all the companies working in India and there should be keen watch over the adoption of this policy by different companies.

REFERENCES:

1.Bhanumurthy, I. and SawantDessai, Dr. Sanjay, Corporate Governance in India Clause 49 of Listing Agreement (August 17, 2010). Available at SSRN: http://ssrn.com/abstract=1660285.
2.Chakrabarti, Rajesh and Yadav, Pradeep K. and Megginson, William L., Corporate Governance in India. Journal of Applied Corporate Finance, Forthcoming. Available at SSRN: http://ssrn.com/abstract=1012222
3.Chakrabarti, Rajesh, Corporate Governance in India - Evolution and Challenges (January17,

2005). Available at SSRN: http://ssrn.com/abstract=649857.
4.Clarke, T. (2000). Haemorrhaging Tigers: The Power of International Financial Markets and the Weaknesses of Asian Modes of Corporate Governance. Corporate Governance, 8(2), 101-116.
5.Khanna, Vikramaditya S. and Black, Bernard S., Can Corporate Governance Reforms Increase Firms' MarketValues? Evidence from India. Journal of Empirical Legal Studies, Vol. 4, 2007; ECGI - Finance Working Paper No. 159/2007; U of Michigan Law & Economics, Olin Working Paper No. 07-002; University of Texas Law, Law and Econ Research Paper No. 86; 1st Annual Conference on Empirical Legal Studies; EFA 2007 Ljubljana Meetings Paper. Available at SSRN: http://ssrn.com/abstract=914440
6.McGee, Robert W., Corporate Governance in Asia: A Comparative Study (January 2008). Available at SSRN:http://ssrn.com/abstract=1078224.
7.McGee, Robert W., Corporate Governance in Asia: Eight Case Studies (January 2008). Available at SSRN:http://ssrn.com/abstract=1081954.
8.Tam, O.K. (2000). Models of Corporate Governance for Chinese Companies. CorporateGovernance, 8(1), 52-64.

WEBSITES:

1.http://www.maheshwariandco.com/repository/articles/downloads/clause49.pdf
2.http://www.nseindia.com/getting_listed/content/clause_49.pdf
3.http://www.iocl.com/AboutUs/AnnualReports/17_Report_on_Corporate_Governance_2014.pdf
4.http://indianboards.com/files/clause_49.pdf
5.http://en.wikipedia.org/wiki/Corporate_governance

1.It is based on the report as retrieved from the website:
http://www.nseindia.com/getting_listed/content/clause_49.pdf
2.The analysis is based on the report on corporate governance of IOC as retrieved from the website: http://www.iocl.com/AboutUs/AnnualReports/17_Report_on_Corporate_Governance_2014.pdf