

Section 66 of the Companies Act, 2013, does not statutorily require a valuation report to be prepared or circulated to shareholders for a capital reduction scheme. Therefore, the non-attachment of such a report to the general meeting notice does not vitiate the process, provided the price offered is disclosed

The **Supreme Court** in the case of **Pannalal Bhansali vs Bharti Telecom Limited [Civil Appeal No. 7655 of 2025]** dated **March 10, 2026**, has clarified that the reduction of share capital is a domestic affair of a company, to be decided by a special resolution of the majority. In short, the court's or Tribunal's role is not to substitute its own business wisdom but to ensure the scheme is fair, just, and not egregiously wrong or prejudicial to any class of shareholders.

The Apex Court ruled that Section 66 of the Companies Act, 2013, does not statutorily require a valuation report to be prepared or circulated to shareholders for a capital reduction scheme. Therefore, the non-attachment of such a report to the general meeting notice does not vitiate the process, provided the price offered is disclosed and the underlying documents are made available for inspection.

The Court also held that the application of a Discount for Lack of Marketability (DLOM) is a valid and permissible valuation methodology under Indian Accounting Standards for determining the fair value of unlisted, illiquid shares in the context of a capital reduction, particularly when it is not a case of a court-ordered buyout due to oppression.

For a court to find a capital reduction scheme prejudicial, the objector must demonstrate more than just receiving a price lower than desired. It must be shown that the offer is 'inherently unjust' or that the valuation is so off-track that it offends the judicial conscience. The approval of the scheme by a majority of the affected shareholders is a strong indicator of its fairness, added the Court.

As far as composition of NCLAT Benches are concerned, the Apex Court said that a bench of the NCLAT is validly constituted under Section 418A of the Companies Act, 2013, as long as it consists of at least one Judicial Member and one Technical Member. Further, the 2013 Act does not mandate a majority of Judicial Members on the bench.

The Court emphasized that the 2016 rights issue, where shareholders received 115 shares at par for every 1 share held, had exponentially increased the number of shares, thereby diminishing the monetary value per share. When this was factored in, the payout to shareholders was substantial. The Court therefore held that the price could not be considered unreasonable or prejudicial, especially since a majority of the identified shareholders present and voting had approved it.

The Court further held that Section 66 of the Companies Act, 2013, unlike other sections such as Section 230 (compromise/arrangement) or Section 232 (merger), does not statutorily mandate a valuation report for a reduction of share capital. Therefore, not annexing the report to the notice did not constitute a misleading disclosure or make the notice 'tricky'. The company had disclosed the final price and made the reports available for inspection for over a month, which was deemed sufficient.

Regarding the valuer's independence, the Court stated that bias must be demonstrably real and present and cannot be assumed merely because the valuer was an affiliate of the internal auditor. This was further supported by the fact that a separate fairness report was obtained and two other independent agencies later affirmed the valuation.

Lastly, the Court observed that the currently applicable Companies Act, 2013, under Section 418A, only requires that a bench of the NCLAT must have at least one Judicial Member and one Technical Member. It does not mandate a judicial majority. Thus, there is no reason to treat Technical Members as lower in status or quality, as all adjudicators are expected to have 'resolute minds and unbiased views'. Since the bench was headed by a Judicial Member and the statutory composition was met, the NCLAT's order could not be interfered with on this ground.