
OPPRESSION AND MISMANAGEMENT UNDER SECTION 241: IS THE NCLT A REAL REMEDY FOR MINORITY SHAREHOLDERS?

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ABSTRACT

Minority shareholders in India have a statutory remedy against oppression and mismanagement under Sections 241 and 242 of the Companies Act, 2013, enforced by the National Company Law Tribunal (NCLT). This essay asks whether that remedy is effective in practice or only generous on paper. It first sets out the statutory framework, including the standing requirement in Section 244 and the reliefs available. It then examines how courts have understood oppression, from *Shanti Prasad Jain* and *Needle Industries* to the Supreme Court's decision in *Tata Consultancy Services v. Cyrus Investments*. The essay argues that a demanding standard of proof, judicial reluctance to interfere with business decisions, and institutional delay in the tribunal together weaken the remedy for the very shareholders it is meant to protect. It closes with four reform suggestions: a clearer statutory standard modelled on the English unfair prejudice remedy, guidelines for the standing waiver, firmer handling of interim relief, and wider use of mediation.

Keywords: Oppression and Mismanagement; Minority Shareholders; Section 241; NCLT; Companies Act, 2013.

I. Introduction

Company law runs on majority rule. Decisions are taken by the board and, where shareholders must decide, by a majority of votes. In most companies this causes no difficulty. The problem arises when the majority uses its control to benefit itself at the expense of shareholders who hold fewer shares. The old rule in *Foss v. Harbottle*, under which the company and not the individual shareholder is the proper claimant for a wrong done to the company, adds to the problem, because the majority also decides whether the company will sue.¹ The law therefore needs a route by which the minority can complain directly.

In India that route is found in Sections 241 to 244 of the Companies Act, 2013 (the “Act”), which allow members to approach the National Company Law Tribunal (the “NCLT”) when the affairs of a company are conducted in an oppressive manner.² These provisions replaced Sections 397 and 398 of the Companies Act, 1956, and moved jurisdiction from the Company Law Board to the NCLT.³ The aim was a faster, specialised forum for company disputes.

This essay asks a narrow question: does the remedy work for the shareholder it is meant to protect? It argues that Section 241 is wide in its wording but narrow in its operation. Three factors explain this. First, courts demand a high standard of proof of oppression, and the statute links the remedy to a winding-up test. Second, the Supreme Court's decision in *Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd.* shows strong judicial restraint towards boardroom decisions. Third, delay and vacancies in the tribunal reduce the practical value of any relief. The essay then offers some reform suggestions.

II. The Statutory Framework

Section 241(1) allows a member to apply to the NCLT in two situations. The first is where the affairs of the company have been or are being conducted in a manner prejudicial to public interest, oppressive to any member or members, or prejudicial to the interests of the company. The second is where a material change has taken place in the management or control of the company, and because of that change the affairs are likely to be conducted in a manner

¹*Foss v. Harbottle*, (1843) 67 Eng. Rep. 189 (Ch.).

²Companies Act, 2013, §§ 241–244, No. 18, Acts of Parliament, 2013 (India).

³Companies Act, 1956, §§ 397–398, No. 1, Acts of Parliament, 1956 (India) (repealed).

prejudicial to the interests of the company or its members.⁴ Section 241(2) separately allows the Central Government to apply where it considers that the affairs of the company are being conducted in a manner prejudicial to public interest.⁵

The Act does not define oppression. What it does is tie the relief to a further requirement in Section 242(1). The Tribunal may make an order only if, besides finding that the affairs are being conducted in the manner complained of, it is of the opinion that winding up the company would unfairly prejudice the applicant, but that the facts would otherwise justify a winding-up order on the just and equitable ground.⁶ This is the winding-up test inherited from the 1956 Act. It means the applicant must prove more than unfair treatment. The facts must be serious enough to justify the ultimate remedy of dissolution, even though dissolution is not what the applicant wants.

Standing is controlled by Section 244. In a company with share capital, an application may be made by at least one hundred members or one-tenth of the total number of members, whichever is less, or by members holding at least one-tenth of the issued share capital, provided that the applicants have paid all calls and other sums due on their shares.⁷ The Tribunal may waive these requirements on an application, so that a smaller group of members can proceed.⁸ This waiver is the main safeguard for small shareholders and is discussed again below.

The reliefs available are wide. Section 242(2) lists the orders the Tribunal may make, among them regulating the conduct of the company's affairs, directing the purchase of a member's shares by other members or by the company, restricting the transfer of shares, setting aside improper transactions, removing a managing director, manager or director, and recovering undue gains made by persons in management.⁹ Section 242(4) allows the Tribunal to pass interim orders on the application of any party.¹⁰ An order may be appealed to the National Company Law Appellate Tribunal (the "NCLAT") under Section 421, and a further appeal on a question of law lies to the Supreme Court under Section 423.¹¹

⁴Companies Act, 2013, § 241(1).

⁵*Id.* § 241(2).

⁶*Id.* § 242(1).

⁷*Id.* § 244(1)(a).

⁸*Id.* § 244(1) proviso.

⁹*Id.* § 242(2).

¹⁰*Id.* § 242(4).

¹¹*Id.* §§ 421, 423.

On paper, then, the provisions give a minority shareholder a specialised forum, wide powers of relief, and a way around the standing threshold. The real question is how these provisions behave when applied.

III. What Counts as Oppression?

Indian courts have not defined oppression with any precision. The early reference point is *Shanti Prasad Jain v. Kalinga Tubes Ltd.* There the Supreme Court held that the conduct complained of must be burdensome, harsh and wrongful, that a mere lack of confidence between the majority and the minority is not enough, and that there must at least be a lack of probity or fair dealing in the way a shareholder's proprietary rights are treated.¹² The Court also looked for conduct continuing up to the date of the petition, and treated the just and equitable ground for winding up as a preliminary requirement that must be shown. *Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.* followed the same line. The Court looked for conduct lacking in probity, treated a series of unlawful acts as one course of conduct, noted that an isolated unlawful act would not by itself establish oppression, and rejected the oppression claim on the facts.¹³

A more flexible approach comes from *Ebrahimi v. Westbourne Galleries Ltd.*, a House of Lords decision on the just and equitable ground for winding up.¹⁴ The Lords held that the formal rules of company law do not always capture the understanding between members, and that in a small company founded on personal trust, equitable considerations may limit the exercise of legal rights. This is the idea of the quasi-partnership. Indian courts have applied it with caution. In *Hind Overseas Pvt. Ltd. v. Raghunath Prasad Jhunhunwalla*, the Supreme Court indicated that partnership principles apply to a company only in narrow cases, such as roughly equal shareholding, complete deadlock, lack of probity in management, or where the company is in substance a partnership.¹⁵

Taken together, these cases leave the minority with two difficulties. The first is that oppression is judged by the quality of the majority's conduct and not by the effect on the minority. A shareholder who loses money or influence must still show wrongful conduct. The second is

¹²*Shanti Prasad Jain v. Kalinga Tubes Ltd.*, A.I.R. 1965 S.C. 1535 (India) (discussing *Elder v. Elder & Watson Ltd.*, 1952 S.C. 49 (Scot.)).

¹³*Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.*, (1981) 3 S.C.C. 333 (India).

¹⁴*Ebrahimi v. Westbourne Galleries Ltd.*, [1973] A.C. 360 (H.L.) (appeal taken from Eng.).

¹⁵*Hind Overseas Pvt. Ltd. v. Raghunath Prasad Jhunhunwalla*, (1976) 3 S.C.C. 259 (India).

that the winding-up test turns a complaint of unfair treatment into a case for dissolving the company, which is a heavy burden. The position favours the quasi-partnership shareholder, who can point to a breach of trust and mutual understanding, and disadvantages the investor in a larger company, who has no such understanding to rely on.

IV. The Turning Point: Tata v. Cyrus Investments

The Supreme Court's decision in *Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd.* is the most significant recent ruling on Section 241.¹⁶ The dispute began after Cyrus Mistry was removed as executive chairman of Tata Sons in October 2016. Two companies of the Shapoorji Pallonji group, holding about 18 per cent of the shares of Tata Sons, petitioned the NCLT under Sections 241 and 242, alleging oppression and mismanagement. The NCLT dismissed the petition. The NCLAT later took a different view, restored Mr. Mistry to the chairmanship, and the matter reached the Supreme Court in appeal.

The Supreme Court set aside the NCLAT's order. Three points from the judgment matter for this essay. First, the Court held that the removal of Mr. Mistry, which rested on a loss of confidence the board could justify, was not oppression or mismanagement, and that the end of a directorship does not by itself make out the just and equitable ground for winding up. Second, it upheld Articles 75 and 121 of the articles of association of Tata Sons as not oppressive to minority shareholders. Third, it held that the NCLAT had gone beyond its powers by reinstating Mr. Mistry, a relief that had not been sought. The overall message is that a tribunal should be slow to treat a boardroom decision as oppression.

This restraint is defensible. A tribunal is not suited to run a company, and a lenient test would invite petitions from every dissatisfied shareholder. The dispute also concerned a company whose articles conferred special rights on its controlling shareholders, which is far from a typical minority dispute, and the case should not be read more widely than its facts allow. But the decision does send a signal. If a shareholder with a stake of that size, in a company of that scale, could not obtain relief, a small investor with no side agreement will find the road harder still. The judgment reinforces the point made in the earlier cases: proof of oppression requires more than proof of unfairness.

¹⁶Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd., (2021) 9 S.C.C. 449 (India).

V. Practical Barriers

Delay and capacity form the second set of difficulties. Company law petitions share the NCLT's benches with a heavy insolvency docket. According to the NCLT's own press release of 7 October 2026, the sanctioned strength is 62 members besides the President, the working strength is 48, and 14 posts are vacant.¹⁷ Press reports of the same period add that 13 courts sit for full days and 18 for half days only.¹⁸ In the same month the Mumbai Bench suspended one of its courts because of vacancies and redistributed its pending cases among the others.¹⁹ A parliamentary standing committee reviewing the tribunal system in a report submitted in August 2026 also took note of vacancies at the NCLT.²⁰ These facts concern the tribunal as a whole, but a bench with fewer members has fewer hearing slots for every kind of matter, including Section 241 petitions.

Oppression cases are also heavy on facts. The applicant must usually prove a pattern of conduct from documents that are in the control of the company, which leaves the minority at a disadvantage on information. The majority can lengthen proceedings through objections on maintainability, including on the standing requirement under Section 244. If interim protection is not granted, the transaction complained of may be completed before the final hearing, and the final relief then becomes difficult to enforce.

Even a successful petition may achieve little. A common outcome in closely held companies is a buy-out of the petitioner's shares, and the valuation of those shares becomes a fresh dispute. The remedy then works as an exit route and not as a means of correcting the conduct of the company. For some applicants that is enough. For those who wish to remain in the company, it is not.

¹⁷Press Release, Nat'l Co. L. Tribunal (Oct. 7, 2026), <https://nclt.gov.in/sites/default/files/2026-10/Press%20Release%20%2007.10.2026.pdf>.

¹⁸*NCLT Records Highest-Ever Quarterly Performance in Terms of Approved Resolution Plans Despite Vacancies*, Bar & Bench, <https://www.barandbench.com/amp/story/news/litigation/nclt-records-highest-ever-quarterly-performance-in-terms-of-approved-resolution-plans-despite-vacancies> (last visited Oct. 18, 2026).

¹⁹Pranali Lotlikar, *Mumbai NCLT Suspends Court VI From October 13, Transfers Pending Cases To 5 Other Courts*, Free Press J. (Oct. 10, 2026), <https://www.freepressjournal.in/mumbai/mumbai-nclt-suspends-court-vi-from-october-13-transfers-pending-cases-to-5-other-courts>.

²⁰Navya Sriram, *Standing Committee Report Summary: Review of Functioning of Tribunal System in the Country*, PRS Legislative Research (Sept. 1, 2026), https://prsindia.org/files/policy/policy_committee_reports/SCR_Summary_Functioning_of_Tribunal_Systems.pdf.

VI. The Way Forward

The Act does not need to be rewritten to improve matters, but four changes would help.

First, Parliament could consider replacing the winding-up test with a stand-alone standard of unfair prejudice, as exists in England under Section 994 of the Companies Act 2006.²¹ English courts have used that standard to ask whether the majority's conduct breached the terms on which the members agreed to associate, or used the company's rules in a way that equity regards as contrary to good faith, and the petitioner is not required to show that winding up would be just and equitable.²² A test of this kind would let the Tribunal look directly at the fairness of the majority's conduct.

Second, the waiver of the standing requirement under the proviso to Section 244(1) could be supported by short guidelines or procedural rules. The Tribunal could be asked to decide the waiver at the threshold, on the nature of the allegations and the existence of a *prima facie* case, so that it does not become a separate round of litigation.

Third, interim applications under Section 242(4) should be listed on a priority basis and decided with reasons, because the harm complained of is often irreversible by the time of the final hearing. This can be done through the NCLT's rules and listing practice and needs no amendment to the Act. Filling the vacancies noted above is a precondition for any such change to work.

Fourth, the Tribunal should make greater use of the mediation and conciliation panel contemplated by Section 442 of the Act.²³ Many oppression disputes arise from broken relationships within families or among founders, and a negotiated settlement, including a fair share valuation, is often more useful to the parties than a long adjudication.

VII. Conclusion

Section 241 promises a minority shareholder a specialised forum and a wide range of reliefs. In practice, the remedy is narrowed by the winding-up test, by a standard of oppression that looks to the majority's conduct, by judicial caution of the kind seen in *Tata v. Cyrus*, and by

²¹Companies Act 2006, c. 46, § 994 (UK).

²²O'Neill v. Phillips, [1999] 1 W.L.R. 1092 (H.L.) (appeal taken from Eng.).

²³Companies Act, 2013, § 442.

delay in a tribunal short of members. The remedy is not empty. A shareholder in a quasi-partnership with clear evidence of exclusion or siphoning of funds can still succeed. But the ordinary minority shareholder will find it a difficult and slow road. The reforms suggested here are modest, and each aims to bring the practice of the NCLT closer to the protective purpose of the statute.