

# **NATIONAL ASSEMBLY SECRETARIAT**

(Public Accounts Committee Wing)

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## **REPORT OF THE SUB-COMMITTEE OF THE PUBLIC ACCOUNTS COMMITTEE ON: CONFLICT BETWEEN FINANCIAL POWERS OF BOARD OF DIRECTORS IN DIFFERENT PUBLIC SECTOR COMPANIES WITH THE POWERS OF MINISTRY OF FINANCE**

I, the Convener of Sub-Committee of Public Accounts Committee have the honor, to present this report under Rule 224(2) of the Rules of Procedure and Conduct of Business in the National Assembly 2007 regarding the "Conflict of Financial Powers of Board of Directors in different Public Sector Companies with the powers of Ministry of Finance".

2) The said Sub-Committee was constituted by PAC on 27<sup>th</sup> March, 2014 and its meeting was held on 23<sup>rd</sup> April, 2014. The agenda item has been deliberated upon in detail and subsequently a recommendation was adopted by the Sub-Committee. The same is placed below for the consideration of the main PAC.

3) During the PAC meetings the issue of conflict of powers of BOD with Ministry of Finance was repeatedly discussed. The Committee observed that the directives of the Ministry of Finance were not implemented properly. Different Public Sector Companies through their Board of Directors increased salaries, allowances and approved bonuses without the approval of M/o Finance. Audit had also pointed out the misuse of powers by the Board of Directors and was of the view that Board of Directors has no authority to take the decision at their own. On the other hand the Public Sector companies emphasized that under the Companies Ordinance 1984, Directors were completely competent to take decisions and therefore, there was no need for the prior approval from the Ministry of Finance. After discussion on these points, the Public Accounts Committee decided to constitute a Sub-Committee on the issue to decide the matter.

4) The Secretary Ministry of Finance, Dr. Waqar Masood Khan informed the Sub-Committee that the basic motive to constitute Public Sector Companies under Companies Ordinance 1984 was to liberalize the government and turning the departments into the corporations. He further explained that when a company is formed by the government then that company is bound to work under the said Ordinance, and Board of Directors run the affairs of the company under the provisions of this Act. He explained that in order to take government policies into account, an exception can be added in the Articles of Association that the Company will comply with the government policies and will seek approval from the government as and when

required. In the absence of such exception/terms, the government has a very weak stand on the issue.

He told that PIA was also formed under an ordinance and its affairs were governed by the Board of Directors.

5) The Committee members asserted that there is need for broad base guidelines because most of the Directors from different companies were not taking care of the interests of the government.

6) Secretary, Ministry of Finance added that the Ministry has prepared the guidelines and notified in the Gazette of Pakistan. The Lahore High Court has already appreciated the efforts made by the Ministry in this context.

7) Dr. Khaqan Hassan Najeeb, D.G, Implementation and Economic Reforms Unit, Ministry of Finance informed that the Ministry of Finance had discussed the issue for more than two years to bring the clarity in the guidelines and notified the same as "Public Sector Companies (Corporate Governance) Rules, 2013," prepared in consultation with SECP just to protect the interest of the government. He further said that the aim is to improve the governance, framework and to bring the transparency. The guidelines extensively cover the composition of board, role of Chairman, responsibilities of Chief Executive and the Powers and functions of the board. It also describes about the meetings of the board, performance evaluation and other allied functions of the companies.

8) The Senior Joint Secretary Ministry of Law, Justice and Human Rights, Mr. Abdul Malik Ghauri briefed the Sub-Committee on the issue and endorsed the opinion of the Secretary, Ministry of Finance.

9) The Chairman Securities and Exchange Commission of Pakistan (SECP), Mr. Tahir Mahmood, briefed the Committee that the Articles of association for a company have provisions to safeguard the interests of the government like any owner. He further added that the criteria of appointment of a director in the government owned companies are different from the private companies. He was of the view that it is the sole responsibility of the Directors of the government owned company to safeguard and watch the interests of government. The Chairman SECP said that in his point of view Directors are bound to implement the instructions passed by the government from time to time otherwise the government has the right to remove them from their post under Section 183 of the Companies Ordinance 1984. The government could also initiate the criminal proceedings against them.

10) The Additional Auditor General Malik Khadim Hussain explained the Audit's point of view. He informed the Committee that only responsive and competitive Companies could get the space and share in the market. He told that the Audit has no

objection on the powers of the Board of Directors but there should be a system of check and balance to evaluate the performance of the Company within a specified time frame. He gave the example of NESPAK, the company had earned profit in billions of rupees but gave the dividend of only two lac rupees to the government. He further told that most of companies do not follow the instructions of the government and that is why audit has to generate audit paras.

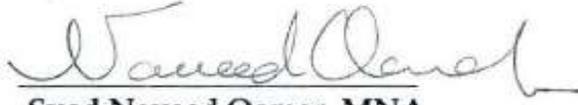
11) The representative of the Audit also complained that the Directors of the Company are not competent enough and do not have the past experience of running a Company. He asked that the government should appoint competent and experienced Directors on merit basis and not on political grounds, for the betterment and smooth functioning of the government Companies.

12) The Committee directed the audit department to look into the guidelines prepared by Ministry of Finance and inform the committee about the discrepancies (if any) in it and to conduct the future audit in the light of the these guidelines.

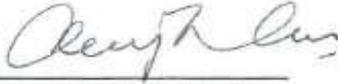
### **Recommendations:**

- The Public Sector Companies operate under the Companies Ordinance 1984, and the BoDs have the power and authority to take decisions without the requirement of taking approval from the Government but stay within the guidelines provided in the “Public Sector Companies Corporate Governance Rules 2013.
- The Sub-Committee recommended that the Government nominated members of Board of Directors of Public Sector Companies should keep in mind the interest of the government and company.
- For future decisions of Board of Directors, complete and comprehensive guidelines “Public Sector Companies Corporate Governance Rules 2013” have been provided by the government which should be followed by the Board of Directors and therefore future audit should take place in the light of these guidelines.
- That the above guidelines were notified on 8th March 2013, and Clause 11 of the said guidelines requires the Directors to undergo at least one orientation course annually. An inquiry be sent to all Board of Directors of public sector companies to inform the government/PAC about the current status of compliance with Clause 11 of the said guidelines.

- Within 3 months all directors of Public Sector Companies should sign off that they have read the Public Sector Companies Corporate Governance Rules 2013 and that they will comply with the guidelines provided.



**Syed Naveed Qamar, MNA**  
Convener, Sub-Committee



**Dr. Arif Alvi, MNA**  
Member



**Muhammad Junaid Anwar Ch., MNA**  
Member



**Khalid Mahmood**  
Joint Secretary, Public Accounts Committee

Adopted by PAC in its meeting on  
May 15, 2014.

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