



QJA/SS/CFD/CFD-SEC-5/31697/2025-26

**SECURITIES AND EXCHANGE BOARD OF INDIA
ORDER**

Under Sections 11(1), 11(4), 11(4A), 11B (1) and 11B (2) read with Section 15HB of the Securities and Exchange Board of India Act, 1992.

In respect of:

Sr. No.	Name	PAN
1	Rajib Kumar Mishra	ACTPM1580A

Rajib Kumar Mishra is hereinafter referred to by his name or as Noticee

In the matter of PTC India Ltd.

CONTENTS

A. PROLOGUE.....	2
B. BACKGROUND.....	2
C. SHOW CAUSE NOTICE.....	5
i. Supply of documents.....	7
ii. Personal appearance and request for inquiry.....	8
iii. Inquiry.....	9
iv. Reply.....	19
D. CONSIDERATION OF ISSUES AND FINDINGS.....	25
i. <i>Res judicata</i>	23
ii. Disciplinary Proceedings being barred as the Noticee is a retired individual.....	25
iii. Applicability of above Regulations.....	34
iv. Enforcement action/s against individuals.....	34
v. Inaction and failure to constructively deliberate on the concerns raised by four independent directors in their resignation letters.....	36
vi. Influencing the process of appointment of Chairman and Managing Director.....	41
vii. Fidelity International letter dated January 27, 2023.....	58
viii. Engagement of Lawyer and Legal Expenses	59
ix. Conduct after SEBI order dated June 12, 2024	65
E. DISPOSAL OF SCN.....	69



Prologue

1. This is a case alleging lack of corporate governance on the part of Chairman and Managing Director (CMD) raising concerns *inter alia* about the conduct of Nomination and Remuneration Committee (NRC) of PTC India Ltd. (“the Company/ PTC India”) and the selection process for the post of CMD.
2. The case is also touching at the core of internal management in administration of the Company and conflict arising out of manner of working of its Board of Directors rather than a matter of investor protection in its true sense.
3. In this case, SEBI has also charged an individual, based on information supplied by other individuals in the Company by making statements and also providing information by way of selective documents.
4. Further, this is case of serious allegations of flouting corporate governance norms and contemplating dual penal actions of directions and imposition of monetary penalty both.
5. In determination of guilt and consequent enforcement actions as contemplated, the thought to be borne foremost in mind is that every such determination and inquiry is a search of truth. This purpose is succinctly captured in the guiding factors in section 11 and 11B i.e. the interest of investors or the securities market. Hence the burden is on adjudicator to determine the validity of the allegations. The objective is to secure a fair and impartial administration of justice not as a contest between allegations and replies but a presentation of facts to which the law may be applied to achieve the stated objectives. As aptly remarked in American Jurisprudence that: – *“It is also not a sport; it is an inquiry into the truth, in which the general public has an interest.”*
6. Further, it is also to be borne in mind that a cardinal principle behind every civil enforcement is that it should, apart from achieving the salutary objectives, ensure saving expense and authority’s resources.

Background

7. PTC India Ltd. is a listed company having its equity shares listed on the Bombay Stock Exchange Limited (“BSE”) and the National Stock Exchange Limited (“NSE”) since April 07, 2004. The company is engaged in the business of providing power trading solutions in India and was established in the year 1999 as a Government of India initiated Public-Private Partnership, with the primary focus on developing a commercially vibrant power market in the country. During the Financial Year 2022-



2023 (i.e. from April 01, 2022 to March 31, 2023) the composition of the Board of Directors of the Company was as follows:

Table No. - 1

Sr. No.	Name	Designation	Date of appointment/re-appointment	Date of cessation
01.	Rajib Kumar Mishra	Executive Director- Chairperson- MD CMD (Additional Charge)	24/02/2020*	-
02.	Raghuraj Madhav Rajendran	Non-executive-Nominee Director (<i>Ministry of Power</i>)	27/01/2022	01/12/2022
03.	Jayant Purushottam Gokhale	Non-executive-Independent Director	16/03/2020	05/12/2022
04.	Parminder Chopra	Non-executive-Nominee Director (<i>Promoter-PFC</i>)	02/08/2020	-
05.	Vinod Kumar Singh	Non-executive-Nominee Director (<i>Promoter-PGCIL</i>)	09/11/2020	-
06.	Himanshu Shekhar	Non-executive-Nominee Director (<i>Promoter-NHPC</i>)	31/12/2021	-
07.	Sangeeta Kaushik	Non-executive-Nominee Director (<i>Promoter-NTPC</i>)	18/02/2022	-
08.	Ramesh Narain Misra	Non-executive-Independent Director	01/07/2020	-
09.	Sushama Nath	Non-executive-Independent Director	20/12/2020	05/12/2022



10.	Devendra Swaroop Saksena	Non-executive-Independent Director	30/07/2021	-
11.	Subhash S. Mundra	Non-executive-Independent Director	01/07/2020	05/12/2022
12.	Preeti Saran	Non-executive-Independent Director	02/08/2020	06/12/2022
13.	Mohammad Afzal	Non-executive-Nominee Director (Ministry of Power)	12/12/2022	-
14.	Prakash Mhaske	Non-executive-Independent Director	16/01/2023	-

* Rajib Kumar Mishra was reappointed as Whole-Time Director with designation as Director (Marketing & Business Development) w.e.f. 24th February, 2020 for five years i.e. upto 23rd February, 2025 as per disclosures made to stock exchanges on February 06, 2020.

8. The composition of the Nomination and Remuneration Committee (NRC) of the Company for the aforesaid period was as follows:

Table No. - 2

Sr. No.	Name of Committee members	Category of directors	Position held in the Committee
1.	Devendra Swaroop Saksena	Non-Executive Independent Director	Chairperson (ceased w.e.f. 19/01/2023)
2.	Sushama Nath	Non-Executive Independent Director	Member (ceased on 24/06/2022)
3.	Vinod Kumar Singh	Non-Executive - Nominee Director	Member (ceased on 01/06/2023)
4.	Ramesh Narain Misra	Non-Executive Independent Director	Chairperson (appointed w.e.f. 24/06/2022) (appointed as Chairman w.e.f. 19/01/2023)
5.	Prakash Mhaske	Non-Executive Independent Director	Member (appointed w.e.f. 19/01/2023)



9. Board of Directors of the Company, in its meeting held on November 01, 2021, had decided that pursuant to resignation of Mr. Deepak Amitabh as Chairman & Managing Director (CMD) of the Company, Mr. Rajib Kumar Mishra, the then Whole-time Director (“WTD”) of the Company shall also exercise the powers of CMD with effect from November 05, 2021, till regular CMD/MD is appointed.
10. Securities and Exchange Board of India (“SEBI”) observed from certain media articles and complaint from Mr. D.S. Saksena dated July 17, 2023 reporting *inter alia* possible lack of corporate governance and raising concerns about the conduct of Nomination and Remuneration Committee (NRC) of the Company and the selection process for the post of its CMD. Accordingly, SEBI undertook an examination.

Show Cause Notice

11. On completion of the examination, SEBI initiated enforcement proceedings and issued a Show Cause Notice (SCN) dated January 07, 2025, upon Mr. Rajib Kumar Mishra (the Noticee) calling upon him to show cause as to why appropriate directions under sections 11(1), 11(4) and 11B(1), including a direction of debarment and further, no direction imposing monetary penalty under Sections 11(4A) and 11B(2) of SEBI Act 1992 read with sections 15A(a), 15HA and 15HB of SEBI Act 1992 should not be issued against the Noticee for the alleged violations of the provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations).
12. The SCN alleged that:
 - a. The Noticee failed to ensure effective functioning of the Board, failed to facilitate the Independent Directors (IDs) to function effectively, failed to facilitate action and constructively deliberate on the concerns raised by the IDs in their resignation letters and thus failed to monitor the effectiveness of Company’s corporate governance practices in violation of the provisions of Regulation 4(2)(f)(ii)(2) and 4(2)(f)(iii)(14) of the LODR Regulations and failed to comply with clause 4(ii), 5(xiii) of the Code of Conduct for Board of Directors of the Company and senior officials .
 - b. Noticee failed to recuse himself and disclose to the Board and NRC his interest in the agenda item pertaining to filling up the vacancy of CMD, failed to manage the potential conflict of interest situation by actively participating in NRC and Board meeting for discussion on agenda



of CMD appointment, attended the meetings and guided and influenced the NRC and the Board in the matter of appointment of CMD, proposing change in NRC composition, tweaking eligibility criteria and invading into the HR functioning and thus not only hindered the independent functioning of the NRC and the Board but also failed to maintain high ethical standards and monitor the effectiveness of Company's corporate governance practices, failed to bring sufficient number of IDs including women ID on the Board, recommendation and appointment of the Noticee was done in a haste manner without having representation of number of IDs required on the Board and also failed to take cognizance of letter written by Fidelity International, the public shareholder of PTC, failed to take action on concerns raised in the letter on multiple issues related to the Company and diverted the Board and Committee processes in violation of provisions of regulation 4(2)(a)(vii), 4(2)(f)(i)(1), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(iii)(2), 4(2)(f)(iii)(3), 4(2)(f)(iii)(6), 4(2)(f)(iii)(12) 4(2)(f)(iii)(14) read with regulation 17(1)(a) and (b) of the LODR Regulations and failed to comply with clause 4(ii), 4(v), 4(vi), 5(ii), 5(iii), 5(vi), 5(xii), 5(xiii), 7(iv) and 8E of the Code of Conduct for Board of Directors of the Company and senior officials.

- c. Noticee failed to adhere to sound corporate governance practices and also failed to maintain high standards in his conduct with respect to legal expenses of Rs. 55.17 Lakhs not pertaining to the business purpose of the Company in violation of regulation 4(2)(f)(ii)(2), 4(2)(f)(ii)(7), 4(2)(f)(iii)(2) and 4(2)(f)(iii)(6) of the LODR Regulations and clause 4(ii), 4(vii), 5(ii), 5(vi) of the Code of Conduct for Board of Directors and senior officials.
- d. Noticee took possession of his official computer system on June 13, 2024, being aware that he is restrained from holding the post of CMD from June 12, 2024, i.e., date of SEBI Whole Time Member (WTM) Order and thus failed to maintain high ethical standards thereby violating regulation 4(2)(f)(iii)(2) 4(2)(f)(iii)(6) and Clause 5(ii), 5(vi) of the Code of Conduct for Board of Directors and senior officials.

13. The above allegations against the Noticee were levelled against him for his conduct and also as officer who is in default as defined under Section 2(60) of the Companies Act, 2013 read with section 27 of the SEBI Act, 1992 and Managing Director under Regulation 2(1)(e) of the LODR Regulations read with section 2(54) of the Companies Act, 2013.



Supply of Documents.

14. Noticee vide his email dated January 25, 2025, acknowledged the receipt of the SCN, denied the allegations therein and sought for an additional time of six weeks to file his reply to the SCN and stating that the Compact Disk (CD) containing annexure to the SCN was badly damaged during transit and was unreadable. The request was duly examined and decision in that regard was communicated to the Noticee vide letter dated January 30, 2025. As Noticee had disputed receipt of Annexure -8 (CD containing video recordings of certain meetings of the Board of Directors, NRC and audit committee of the Company) the CD, the SCN along with all its annexures was again sent to the address of the Noticee on record alongwith said letter dated January 30,2025. However, the Noticee, vide his email dated February 13, 2025, submitted that the SCN alongwith the annexures have been received by the him but again claimed that the CD being Annexure-8 to the SCN was not received. The Noticee again requested access to the following documents:

- “1. Board meetings related minutes and recordings for the relevant periods (last three years till date of SCN i.e. 7 th January 2025).*
- 2. NRC minutes and recordings (last three years).*
- 3. Email Communications / letters received by PTC India from SEBI in the last three years.*
- 4. Email Communication / replies / Documents submitted by PTC / Company Secretary to SEBI during last two years.*
- 5. Statements of officials who have visited SEBI Headquarter during July 2024 / over the past year and the written statements / voice recordings if any.*
- 6. Communication from the company in response to complaints received by SEBI, Government of India, or any other regulatory authorities.*
- 7. Corporate Governance Compliance report of PTC India submitted to Exchanges as approved by Board.*
- 8. PTC India Board / Board Committee report as complaint response submitted by PTC to SEBI.*
- 9. Public Notice / Notices to Stock Exchange during last two years by PTC.*
- 10. AGM / EGM voting results and reports submitted to regulators / Exchanges.*
- 11. Performance report of WTD for FY 2022-23.*
- 12. Scoring sheet of all the candidates appeared for CMD Interview on 11th March 2023.*
- 13. Chain of competent authority who approved invoices raised by Mr Mohanty and chain of competent financial authority who approved the invoices for payment.*
- 14. Any other related documents which might be required to furnish the reply.”*



15. Despite multiple attempts to deliver the Annexure-8 (CD) upon the Noticee, he disputed its receipt. Hence, an attempt was made to deliver the said Annexure-8 by hand delivery alongwith the letter dated February 24, 2025 and the copy of the SCN at the address of the Noticee available on record. However, when the hand delivery was sought to be effected by visiting the address of the Noticee on March 03, 2025, the persons available at the address of the Noticee refused to accept the delivery. They also denied to share the mobile number of the Noticee to facilitate communication. As such, the letter and the CD was served by affixing them at the conspicuous place at the given address of the Noticee.

Personal appearance and request for inquiry

16. The Noticee vide email dated March 13, 2025 filed his reply to the SCN, *inter alia*, as the following:-

- a. He again insisted for supply of documents claiming that the said documents being part of records of the Company are relevant and can prove his innocence.
- b. He vehemently stated all those documents are with the Company or SEBI and he should be provided with a copy and inquiry can not proceed without those documents.
- c. Being a retired person he can not procure documents from the Company or if attempts, the Company may deny. He retired from the Company on June 12, 2024 and faces serious constraints of having no access to the relevant documents of the Company which are essential for providing reply to the SCN.
- d. Hence, if SEBI has not examined those documents, it can procure them during this inquiry. He contended that reliance in SCN has only been placed upon one sided documents which are cherry picked by SEBI. In support of his contentions he relied on the judgement of the Hon'ble Supreme Court in *Reliance Industries Ltd. Vs. SEBI* to submit that SEBI cannot claim privilege over certain parts of documents, whilst disclosing other parts from the very same document or opinion.
- e. The Noticee reiterated his request for documents as being essential for furnishing a comprehensive reply and contended that the denial of access to documentary evidence is a gross injustice.
- f. He also sought opportunity to appear in person to explain his request and for inquiry into the matter only after obtaining relevant documents and providing the same.

17. The Noticee vide his email dated March 24, 2025 authorised Mr. Ajit Mishra, Company Secretary (hereinafter referred to as 'AR') to represent him in the present proceedings. As requested, an opportunity of personal appearance was granted to the Noticee on May 07, 2025, however, the same



was adjourned to May 19, 2025, as the AR informed that the Noticee was suffering from cardiac ailment and undergoing medical supervision and further that the AR was not available due to prior professional commitments.

18. On May 19, 2025, the Noticee appeared in person and submitted to have received the SCN and all the documents relied upon in the SCN as its annexures. He contended that the board resolutions of the Company after he had left office till issue of SCN (June 12, 2024 to January 07, 2025) be taken on record and a copy of the same be furnished to the Noticee being relevant to the present proceedings. He submitted that the Company had taken decisions pertaining to all the allegations in the SCN in the said board resolutions and found no wrongdoing on the part of the Noticee, releasing his gratuity and other retirement benefits. In absence of those documents he is impaired to furnish his response to the allegations in the SCN and having been retired from the services of the Company, he cannot obtain those relevant documents. He vehemently submitted that the examination in the matter is incomplete as complete records of the Company has not been looked into. According to him, the Board resolutions of the Company from June 12, 2024 to January 07, 2025 were not on record of examination and that can show his *bona fide*. He requested that a detailed inquiry into the matter is necessitated and must be conducted before forming an opinion for adjudication of the allegation as preliminary examination of SEBI is based on incomplete and selective information.

Inquiry.

19. The above contentions of the Noticee was examined and it was noted that this case involves peculiarity in several aspects viz;
- a. The Board resolutions of the Company from June 12, 2024 to January 07, 2025 were not on record and have not been gone into by the examination in this matter. Said resolutions, as claimed dealt with the discharge of the Noticee from the service of the Company and approval of payment of gratuity and other retirement benefits to him. As per the Noticee such approval by the Board of Directors of the Company, reflects that the acts of the Noticee were *bona fide* in the interest of the Company and not having same on record impairs the ability of the Noticee to defend himself. Be that as it may, these Board meetings have taken place at relevant times and the decisions of the Board of the Company in those Board meetings are crucial to decide the matter in its perspective.
 - b. The SCN is against an individual alleging individual misdemeanors by him as primary liability and also as an officer in default. However, it is unclear as to how individual is treated officer in



default for his own acts and omissions and when the Company is not a party to the proceedings. The examination predominantly oriented towards the Noticee and not the Company and its Board of Directors although a light touch of default of corporate governance is attempted. It is more inclined towards penalising as disciplinary action.

- c. After the Noticee had demitted office of the Company on June 12, 2024 and during examination of the matter by SEBI the Board of Directors might also take decision on the matters in issue as the concerns were within their knowledge. However, the examination has completely ignored this aspect.
 - d. The Noticee is a retired private individual with limited access to records pertaining to the Company. In cases dealing with the liability of retired individuals, for acts done while in service of the Company office it becomes imperative to exercise caution so as to prevent any harassment for *bona fide* acts done during employment.
 - e. The allegations in the SCN pertain to corporate governance issues, such as, the selection process for the post of CMD, failure to deliberate on the concerns of the independent directors, not taking cognizance of the concerns of the shareholders, etc, however, examination/inquiry into the conduct of other board members/ KMPs/ employees of the Company has not been done by SEBI.
 - f. PTC India Ltd. is not a normal listed Company but a Central Public Sector Undertaking (CPSUs), which has been promoted by four CPSUs, namely, NTPC Limited, Powergrid Corporation of India Limited, Power Finance Corporation Limited and NHPC Limited. Joint Secretary, Ministry of Power also represents in the Board of the Company as Central Government Nominee.
20. In view of the above peculiarity and since the SCN also contemplated inquiry and adjudication for imposition of monetary penalty as additional penal action under Section Sections 11(4A) and 11B (2) of the SEBI Act read with sections 15A(a), 15HA and 15HB thereof, I cannot avoid but must strictly follow the procedure prescribed under the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules,1995 (hereinafter referred to as the “Adjudication Rules”). The procedure so laid down is prescribed for a specific purpose i.e. while inquiring and adjudicating such cases, as the present one, the thought to be borne foremost in mind is that every inquiry is a search of truth. This purpose is succinctly captured in the dual procedure under rule 4 and then under rule 5 of the Adjudication Rules. On reading the sub-rule (1) and (3) of rule 4 of the



Adjudication Rules, it is clear that on the issue of show cause notice, a Noticee is permitted to submit his reply to the same. In terms of the said Rule, the Adjudicating Authority has to consider the objections raised by the Noticee and only if he forms an opinion that an inquiry should be continued further that the Adjudicating proceedings can be proceeded with, by issuing a notice for personal hearing. However, if the Adjudicating Authority is satisfied that the objections raised to the notice are valid, he may drop the show cause notice. The provision as found in rule 4 of the Adjudication Rules is a unique provision. Perhaps the framers of the Adjudication Rules were mindful of cardinal principles of such administrative adjudication as civil action and framed the Adjudication Rules keeping in mind the following overriding objectives as set out in ‘The Halsbury’s Law of England’ for framing rules for conducting such civil proceedings: -

- (i) ensuring that the parties are on equal footing;
- (ii) saving expense;
- (iii) dealing with the case in ways which are proportionate:
 - (a) to the amount of money involved;
 - (b) to the importance of the case;
 - (c) to the complexity of the issues; and
 - (d) to the financial position of each party;
- (iv) ensuring that it is dealt with expeditiously and fairly;
- (v) allotting to it an appropriate share of the court’s resources, while taking into account the need to allot resources to other cases; and
- (vi) enforcing compliance with rules, practice directions and orders.

The parties are required to help SEBI to further the aforesaid overriding objectives.

21. Undoubtedly, perhaps unquestionably, in my view, the same objectives guide the interpretation and application of the Adjudication Rules. I can’t blindly act as advocate for the facts alleged in examination. In this search for truth, while placing these Rules in highest regard, on the role of an inquiry officer and also an Adjudicator simultaneously, I am benefited from following observations of Lord Denning¹ :

¹ in Jones v. National Coal Board



“The Judge’s part in all this is to hearken to the evidence, only himself asking questions of witnesses when it is necessary to clear up any point that has been overlooked or left obscure; to see that the advocates behave themselves seemly and keep to the rules laid down by law, to exclude irrelevancies and discourage reputation, to make sure by wise intervention that he follows, the points that the advocates are making and asses their oral, and at the end to make up his mind where the truth lies. If he goes beyond this he drops the mental of a judge and assumes the role of an advocate, and the change does not become his well”.

22. Accordingly, in light of the above peculiar facts of this case, the matter was first proceeded with inquiry in terms of rule 4(3) of the Adjudication Rules and a Notice dated May 23, 2025 was issued to the Company under section 15-I(2) of the SEBI Act read with rule 4(6) of the Adjudication Rules advising it - *“to produce the board resolutions, minutes of meeting and other relevant documents with respect to Mr. Rajib Kumar Mishra, Ex-CMD, PTC India Limited for the period June 12, 2024 to January 07, 2025.”*

23. In response to the aforesaid Notice, Mr. Rajiv Maheshwari, Company Secretary of the Company, vide a letter dated May 28, 2025, submitted the copy of the minutes of 9 board meetings (minutes of 181st meeting of Board of Directors dated June 13, 2024 to 189th meeting of Board of Directors dated December 24, 2024) and informed as under :-

- a. the Noticee, on December 14, 2024, sent a representation to the Board of Directors of the Company regarding his salary from June 13, 2024 along with all dues as well as the legal expenses of Rs. 72 lacs incurred by him in relation to court cases.
- b. The Board of Directors of the Company in their 189th meeting directed to submit the representation to NRC and the NRC in its 52nd meeting desired the Human Resources Department (HRD) of the Company to obtain a legal opinion on the issue and that the Company is in the process of obtaining the legal opinion in this regard.

24. The information received from the Company was deemed relevant upon examination and was furnished upon the Noticee vide a letter dated May 30, 2025. The Noticee, vide a letter dated June 06, 2025, *inter alia*, submitted his additional reply as under: -

- a. In a listed company, decision of the Board of Directors override individual director’s opinions and the board functions as a collective decision-making body, guided by principles



of collective responsibility and fiduciary duty. Governance frameworks and corporate laws mandate that decisions be made by majority vote, ensuring consistency, accountability and operational efficiency. While directors may voice, dissent, once a resolution is passed, it becomes the official position of the Company.

- b. The Board of Directors hold the ultimate authority to constitute, reconstitute and modify the composition of any of its committees. These committees are substructures of the board, created to support its functions and operate under the delegation and oversight of the board. The Board of Directors has the full discretion to make changes to committee memberships or structures as and when it deems necessary.
- c. The resignation of the independent directors was addressed to the Board of Directors of the Company and was accepted and noted by it in its 167th meeting held on December 6, 2022.
- d. The Board of Directors in its 168th meeting held on January 19, 2023 reconstituted the committees of the Company.
- e. The qualifying criteria for the post of CMD and director and the advertisement was approved by the Board of Directors of the Company in its 165th meeting dated November 02, 2022.
- f. The Board of Directors of the Company in its meeting held on December 24, 2024, decided that the appointment of Mr. S.C. Mohanty was as per the prevailing Delegation of Power (DoP) and the payment released were as per terms of contract. They further directed that no recovery be made from the Noticee in this regard.
- g. That he took possession of the computer system as per DoP and the Board of Directors in its 189th meeting approved the buyback of old items. Company has released all the payment including gratuity after deducting the recovery as per HRD norms including the depreciated desktop and after due certification by HRD and management of the Company.
- h. Mr. D.S. Saksena on the basis of whose complaint SEBI has initiated and investigated the present matter has changed his official stand to suit his convenience. Being the Chairman of NRC of the Company, he invited the Noticee to the NRC and approved its minutes but after several months, on July 17, 2023, made a complaint to SEBI. That Mr. D.S. Saksena failed in his role as an independent director, did not exercise independent judgement and



failed to undertake his duties effectively. He was observed to be interacting with employees and involving in operational matters, beyond his advisory role as an independent director. Communicated with regulatory bodies, using his spouse's email ID, cherry picked issued related to a consultant's retainer fees leading to delay in approval of the Company's annual/ quarterly financial results of FY 2023-24. After a detailed review, the Board of Directors of the Company in its meeting held on December 24, 2024 resolved that the decisions in question had been as per DoP, duly processed within its delegated authority and were entirely appropriate.

- i. The observations/ allegations outlined in the SCN have been addressed and approved by the Board of Directors of the Company and that there is no individual responsibility for the same with the Noticee. The Noticee has submitted an allegation-wise table giving his response to the allegations and the persons with whom the responsibility lies in the Company for the said allegations.

25. Considering that new documents/ information (not earlier on record) were received from the Company, furnished upon the Noticee and detailed submissions were received on the same, the Noticee was asked to appear on June 23, 2025 and explain the documents. On the said date, the Noticee along with his AR appeared in person and submitted that the changes suggested by the Noticee to the eligibility of the post of CMD was approved by the Board of Directors of the Company on November 02, 2022 and that Mr. S.C Mohanty was engaged to provide legal services in connection with the Company and not for any personal use. He further submitted that he took possession of the computer system to perform his duties as director of PTC Energy Ltd (PEL), an unlisted company. The Noticee again contended that the examination into the present matter is deficient and requested to call for the following from the Company and to take same on record:

- a. Approved minutes of the 165th to 172nd meeting of the Board of Directors of the Company.
- b. The Human Resources Department policy of the Company with respect to the recruitment of internal and external candidate for the position of CMD and Director (Commercial & Operations) of PTC India Ltd.
- c. The policy of the company with respect to the role of the Chairman of the NRC, Chairman of the Stakeholder Relationship Committee and Chairman of the Company.
- d. Who were the ED (Law) and ED(HR) of the Company at the relevant time?



26. Pursuant to the hearing, the Noticee submitted his written submissions dated July 02, 2025, seeking another opportunity of hearing. In view of several contentious submissions of the Noticee in the said written submissions, based on additional documents it became necessary to search the truth from the Company itself as the matter pertained to internal decision making in the Company. Accordingly, a summons dated June 30, 2025 for production of documents under Section 15-I (2) of the SEBI Act read with rule 4(6) of the Adjudication Rules was issued upon the Company to produce the documents/ information and to be present to explain the same. Mr. Rajiv Maheshwari, the Company Secretary of the Company, vide email dated July 04, 2025, submitted response of the Company to the summons dated June 30, 2025. The information/ documents received from the Company were provided to the Noticee vide email and letter dated July 04, 2025. In compliance of the said summons, Mr. Rajiv Maheshwari alongwith Ms. Koel Mallick, SVP, HRD appeared, in person, on July 11, 2025, explained the documents/ information submitted by Mr. Rajiv Maheshwari vide the email dated July 04, 2025 and *inter alia*, submitted that:

- a. After NRC of the Company had cleared the draft advertisement on July 25, 2022, Mr. Harish Saran, ED-HR recommended to increase the experience requirement for the post of CMD from 20 years to 25 years on file which was agreed by the Noticee and unanimously approved by the NRC in its meeting held on October 08, 2022.
- b. Ms. Koel Mallick submitted that it has been wrongly observed in the SCN that she shortlisted the candidates for the posts of CMD and Director (Commercial & Operations) rather she only scrutinized and collated the applications received and placed them before NRC for shortlisting on the instructions of Mr. Harish Saran and the Noticee since they were applicants for the post of CMD and Director (Commercial & Operations) respectively.
- c. For the post of CMD, 27 applications were received out of which 26 applications were made by external candidates and Noticee was the only internal candidate who applied.
- d. The process for appointment for both the said posts was being conducted simultaneously, however on March 18, 2023, interview process was held only for the post of CMD as NRC did not fix a date for interview of Director (Commercial & Operations).
- e. On March 18, 2023, the selection committee comprising of NRC members and Joint Secretary of Ministry of Power (JS-MOP) selected Noticee. As recommended by the NRC, she referred



the same on the same date to Mr. Rajiv Maheshwari, Compliance Officer for placing the said selection as additional agenda before the meeting of Board of Directors of the Company which was held in the same premises on the same date.

27. On the basis of the aforesaid submissions, the following additional information was deemed crucial and material for the purpose of inquiry and sought from Mr. Rajiv Maheshwari and Ms. Koel Mallick during the hearing on July 11, 2025:

- a. The reasons for change in composition of the various committees of the directors of the Company, during the process of selection of the post of CMD;
- b. Details of change of members who were changed in various committees during the board meeting after NRC meeting dated October 08, 2022 including names of members who were freshly inducted or appointed from amongst the other committees.
- c. The reason with supporting documents from the records of the Company for the change in experience criteria for the post of CMD from 20 years to 25 years in the draft advertisement and the final advertisement issued by the Company.
- d. Documents with respect to the cause for the selection process only being initiated for the post of CMD in March 18, 2023 and deferring the selection process for the post of Director (Commercial & Operations) to a later date despite the selection process being held simultaneously till then.
- e. Reasons for holding the meeting of Board of Directors and selection committee meeting on the same date, i.e. on January 18, 2023 and why Mr. Harish Saran, ED-HR, was not involved in selection process on the said date though his name was not under consideration for the post of CMD.
- f. Policy of the Company and Public Sector Bank (PSB) norms referred by the Noticee in the 31st and 32nd meeting of the NRC.

28. On the same day, i.e. July 11, 2025, as requested by the Noticee in his submissions dated July 02, 2025, another hearing was conducted *qua* the Noticee. On the said date, the Noticee along with his AR appeared in person and submitted his written submissions of the same date, summarizing his submissions in response to the key allegations levied against him in the SCN. He acknowledged



and agreed to have received all the relevant documents that are vital to his defence as per him. The Noticee reiterated his submissions already made in the proceedings and strenuously emphasized that after recommendation of NRC and after its acceptance of all contents of draft advertisement on July 25, 2022, the change for increasing the experience requirement for CMD from 20 years to 25 years was put up to him by Mr. Harish Saran, ED-HR who was then handling the matter and the Noticee only recommended the same for placing it before the NRC as he is not the approving authority. The same was approved by the NRC unanimously on October 08, 2022. The Noticee denied the allegations in the SCN that the appointment for the post of CMD was done in haste in a single day (March 18, 2023) and undertook to submit documents and list of dates with respect to the timeline of his appointment as CMD, which was granted.

29. As undertaken during the hearing on July 11, 2025, the Noticee on July 14, 2025, vide email, submitted three letters dated March 27, 2023 from NHPC, NTPC and PFC respectively giving consent for the appointment of the Noticee as CMD of the Company and '*important dates and milestones for selection of CMD*'. The documents/ information sought from the Company on July 11, 2025, were received vide email dated July 18, 2025, and furnished upon the Noticee vide letter dated August 11, 2025.
30. Considering that new information/ documents not earlier on record were furnished upon the Noticee, another hearing *qua* the Noticee was conducted on August 22, 2025. On the said date, the Noticee appeared in person and made submission in line with his earlier replies and further submitted that the allegation in the SCN regarding the appointment of Noticee being done in a hasty manner is misconceived, rather his appointment was done in a manner similar to all earlier appointments. He submitted that prior to his appointment as CMD of the Company, NRC carried out 5 earlier appointments for board level posts and for each of these appointments the candidates were shortlisted, NRC recommended the name of the candidate and the board meeting approving the appointment happened on the same day. The Noticee relied upon the minutes of the 170th meeting of the Board of Directors of the Company to contend that the appointment was not done hastily but as per procedure as in the said minutes it was mentioned that letters were sent to the CMDs of the promoter companies of PTC India and the letter of appointment would be issued subsequent to the receipt of the consents of CMDs of the four promoter Companies. He further submitted that as Mr. D.S. Saxena was chairing all the three statutory committees, viz. Audit, NRC and Corporate Social Responsibility committee (CSR) prior to December 19, 2022, the same was changed and unanimously approved in the 168th meeting of the Board of Directors.



31. Considering the submission of the Noticee that prior to his appointment as CMD of the Company, NRC carried out 5 earlier appointments for board level posts and for each of these appointments the candidates were shortlisted, NRC recommended the name of the candidate and the board meeting approving the appointment happened on the same day, an email dated August 27, 2025 was sent to the Company seeking the veracity of the statement of the Noticee. The response received from the Company, in this respect is as follows:

Table No. - 3

S.no.	Person Appointed (Designation)	Appointment Year	Recommendation of NRC	Approval of Board
1.	Shri Deepak Amitabh (former CMD)	2012	The Interview and recommendations of Nomination Committee was made on 4 th September, 2012.	The Board approved the recommendations of Nomination Committee in its meeting held on 10 th September, 2012.
2.	Shri S.N. Goel (former Director)	2012	The Interview and recommendations of Nomination Committee was made on 3 rd September, 2012.	After the recommendations of Nomination Committee, the proposal was approved by the Board by circulation and Board noted this in its meeting held on 10 th September, 2012.
3.	Shri Ajit Kumar (former WTD-Director)	2015	The Interview Panel made by Nomination & Remuneration Committee held interview on 03 rd February, 2015 and recommendations of Interview Panel was agreed by NRC on 05 th February, 2015.	The Board approved the recommendations of Nomination & Remuneration Committee in its meeting held on 05 th February, 2015.
4.	Shri. Rajib Kumar Mishra (former	2015	The Interview Panel made by Nomination & Remuneration Committee held interview on 03 rd February, 2015 and	The Board approved the recommendations of Nomination & Remuneration Committee in



	WTD-Director)		recommendations of Interview Panel was agreed by NRC on 05 th February, 2015.	its meeting held on 05 th February, 2015
5.	Shri Arun Kumar (former WTD-Director)	2015	The recommendations were made by Nomination & Remuneration Committee and Audit Committee on 22 nd April, 2015 and 30 th , April, 2015 respectively.	The Board approved the recommendations of Nomination & Remuneration Committee and Audit Committee in its meeting held on 28 th May, 2015.

Reply

32. The submissions of the Noticee on allegations are as under:

- a. He is a qualified power sector professional with impeccable track record of 38 years and was holding the position of CMD of the Company from March 29, 2023 till June 12, 2024 as on said date he was restrained by a SEBI Order to be a board member of any listed entity. Prior to that he was Director (Marketing) of the Company till March 28, 2023.
- b. That a similar SCN was issued to the Noticee, in the matter of PTC India financial services, which is a subsidiary Company of PTC India, where the Noticee was a nominee director. In the said proceedings, SEBI, vide order dated June 12, 2024 restrained the Noticee to be a director in a listed company for six months. In appeal, Hon'ble Securities Appellate Tribunal (SAT) on December 11, 2024 quashed the said Order categorically giving the finding that all allegations against the Noticee (Appellant before Hon'ble SAT) are baseless and that the Noticee has suffered the order for about six months for no fault. Thus, the SCN is barred by *res judicata*.
- c. That the SCN has been issued to him erroneously as he is a private citizen who ceased to be a board member/ employee and is no longer in service. He has received gratuity amount and other dues from the Company and has no longer any access to the documents/ information pertaining to the Company. The Noticee relied on the judgement of the Hon'ble Supreme Court in the matter of ***State Bank of India & Ors. Vs. Navin Kumar Sinha***² to contend that no disciplinary proceedings can be initiated after the delinquent employee or officer retires from service on

² Judgement dated November 19, 2024 in Civil Appeal No. 1279 of 2024



attaining the age of superannuation or cessation of service. That the Board of Directors of the Company must have taken cognizance of all the issues as brought out in the SCN while releasing the full Gratuity payment and final closure of the Noticee.

- d. That the violations alleged are in relation to the day to day operation of the Company wherein all the decisions were taken as per vested DOP either to the Board of Directors of the Company or committee of Board of Directors of the Company. No instances have been mentioned specifically where violation has been established and are generalist or sweeping statements without clearly identifying the particular DOP/ responsibility center/ approving authority. That most of the allegations mentioned in the SCN are against either the Board of Directors of the Company, board committees or the compliance officer of the Company. Such as the resignation letter of IDs which were addressed to the entire board. However, no notice has been served either to the Company, the Board of Directors, committee of the board, company secretary and compliance officer or key managerial personnel (KMP).
- e. That the Board of Directors of the Company are independent having highly qualified individuals including nominees from Maharatna Public Sector Undertaking (PSU), retired IAS officers, JS-MOP, IDs etc and it is not possible to influence or dominate them.
- f. On receipt of few queries from SEBI, the Board of Directors of the Company constituted a three-member committee consisting of two IAS officers and one director of a Maharatna Central Public Sector Undertaking (CPSU). All the members who were earlier part of the decision making and member of NRC were excluded from the Committee. The Committee was mandated and assigned to submit its findings and reply to the queries of the SEBI. The report cum reply to SEBI finalised by the three-member independent committee and unanimously approved by the Board of Directors of the Company in its September 2023 meeting. The said report did not contain any adverse findings.
- g. That the selection of Chairman and Managing Director (CMD) of the Company is a decision taken by the Board of Directors and the Nomination and Remuneration Committee (NRC) of the Company and approved by the JS-MOP. The selection is further approved by the shareholders of the company in the Annual General Meeting (AGM). The selection of IDs is also the responsibility of NRC and they are liable for any delay in appointing new IDs.
- h. The reliance of SEBI on the email and letter of Mr. D. S. Saxena is misplaced as he himself approved the minutes of the Board of Directors and NRC of the Company and did not mention



anything adverse. Mr. D.S. Saksena has changed his stance and position from his approval of minutes to when he lodged his objection before SEBI.

- i. The portion of the discussion quoted in the SCN pertained to the job description of the position of Director (Commercial & Operations), the reference to PSEB norms and qualifying requirements was made by the Noticee as an illustrative recommendation which was not accepted by the Chairperson of the NRC. At the time of the said NRC meeting, he was not an applicant for the post of CMD and attended the meeting in the capacity of an invitee WTD being invited by the Chairperson of NRC, Mr. D.S Saksena to participate in the proceedings. Mr. D.S. Saksena did not record any objection to the discussions or the decisions taken, indicating his full concurrence with the proceedings. As an invitee to the said meeting, Noticee had neither voting rights nor decision-making authority and was merely discharging his duty to provide relevant regulatory context. Noticee was uncertain about applying for the post of CMD at the said time and even after applying remained undecided about appearing before the selection committee.
- j. The Noticee never issued any verbal instruction to Mr. Harish Saran Executive Director (Human Resources) (ED-HR) or Ms. Koel, Senior Vice President (SVP), in relation to the selection process. As Mr. Harish Saran himself was an applicant for the position of Director (Commercial & Operations), he was specifically advised, through a formal internal order, not to oversee HR functions during the selection process, in order to avoid any conflict of interest or perceived misuse of position. After not being selected by the selection committee, Mr. Harish Saran has made statements that appear to contradict the facts, these statements are post-facto justifications and are biased or self-serving, rather than objective accounts of fact. Mr. Harish Saran, who had applied for the position of Director (Commercial & Operations) was also present during the same NRC meeting and no objection has been raised by Mr. D.S. Saksena in this respect.
- k. Following the resignation of other Independent Directors, Mr. D.S. Saksena took over the chairmanship of audit committee, NRC and CSR mandated under the Companies Act and LODR Regulations. Each of these statutory committees serve distinct purpose requiring independent judgement and diverse perspectives, overlapping chairmanship compromised the checks and balances essential for transparent functioning and increased the risk of perceived or actual conflict of interest and concentration of power. The Board of Directors of the Company, on January 19, 2023, unanimously reconstituted the composition of its committees after the induction of a new Independent Director to the Board of Directors of the Company.



- l. Mr. D.S. Saxena used his spouse's personal email ID for official correspondence with SEBI, disclosing sensitive internal documents to persons not authorised to receive such information. A coordinated effort has been undertaken to discredit Noticee, influencing regulatory perception and destabilizing leadership through illegitimate means.
- m. The Company's legal cell was functioning without any professionally qualified legal personnel, including Executive Director (Legal), leading to increased risk for the CMD and senior management to vet documents and communications that carry legal implications. Accordingly, Mr. S.C. Mohanty was engaged as legal retainer, the fees paid to him was duly processed by CFO of the Company with appropriate recommendation for payment by ED (Legal). The appointment of Mr. S.C. Mohanty has been approved by the Board of Directors in its meeting held on December 24, 2024. The appointment was for the purposes of the Company and not for personal use as alleged in the SCN as he was represented by a different advocate before the Hon'ble SAT.
- n. Even after SEBI Order dated June 12, 2024, the Noticee continued to be Managing Director of PTC Energy Limited (PEL), an unlisted subsidiary of PTC India Limited. He was discharging his responsibilities with respect to PEL from the same office premises, utilizing shared infrastructure including computing systems, network access and administrative support.
- o. The conduct of Company Secretary and Whole Time Director, Mr. Manoj Jhavar reflects a clear pattern of collusion aimed at dislodging the incumbent CMD through procedural manipulation and regulatory defiance. These persons teamed up with Mr. D.S. Saxena, then chair of key board committees to falsely implicate the Noticee on tenuous grounds. Mr. Manoj Jhavar despite being on probation and not been confirmed as a WTD was assigned the temporary charge of CMD post SEBI Order, and despite a judicial stay granted by the SAT on June 21, 2024, he continued in the said position.
- p. The Noticee submitted his specific response allegation wise as under:
 - i. **Allegation 1: Not Deliberating on the Concerns raised by Independent Directors in their resignation letters:** The Board of Directors of the Company in its meeting held on December 6, 2022 duly noted and accepted the resignation letters of the IDs, in accordance with the governance norms. Paragraph No. 15.2 of the SEBI Examination Report (ER) states that the resignation letters were addressed to all members of the Board of Directors of the Company



who were fully aware of the concerns of the IDs. The statement of the Company Secretary on the minutes of the said meeting confirm that the matter was discussed and considered at the time of noting.

ii. Allegation 2: Process of CMD selection, change in eligibility criteria and NRC composition:

- I. The issue of composition of committee and filling up of vacant ID positions was deliberated by the Board of Directors of the Company in its 168th meeting on January 19, 2023, with recorded consensus to ensure timely compliance with SEBI regulations.
- II. The eligibility criteria for the post of CMD and Director (Commercial & Operations) was discussed and approved by the Board of Directors of the Company in its 165th meeting on November 2, 2022, based on a suggestion by JS-MoP and accepted by the Board of Directors through formal resolution.
- III. Noticee was not a member of the NRC and attended its meeting only upon invitation of its Chairman, Mrs. D.S. Saxena. The suggestions provided therein were non-binding and advisory and no verbal instructions or undue influence was exercised by the Noticee.
- IV. There is selective scrutiny by SEBI as Mr. Harish Saran, also an applicant for the post of WTD also participated in NRC meeting. The administrative action to take his additional charge of ED(HR) was to ensure proper HR process and the decision was aligned with the principles of good governance.
- V. The use of a personal email by Mr. D.S. Saxena's spouse to share internal documents and submit complaints raises serious issues of breach of confidentiality.

iii. Allegation 3: Appointment of Independent Directors and addressing shareholder grievance: The NRC was responsible for recommending IDs and the Noticee only attended the meeting of NRC as an invitee. The Board of Directors of the Company referred the communication from Fidelity International to the Stakeholders Relationship Committee (SRC) of the Company. The SRC deliberated on the matter in its meeting held on March 29, 2023 and recorded in its minutes.

iv. Allegation 4: Removal of Old PC and Access Denial at PTC Energy Ltd: SEBI interim order did not prohibit the Noticee from discharging his responsibilities as Managing Director



of PEL. Despite this, access to the official systems and office premises was unilaterally withdrawn by the Company Secretary and WTD of the Company.

v. Allegation 5: Appointment of Legal Counsel: The appointment of Mr. S. C. Mohanty, Advocate was done in accordance with the prevailing DoP of the Company and was duly discussed in the 189th meeting of the Board of the Directors of the Company held on December 24, 2024. The legal counsel for the SEBI proceedings of the Noticee was Dr. Manas Day. On the contrary, significant legal expenses have been incurred by the other officials of the Company without seeking approval of the Board of Directors warranting scrutiny on part of SEBI.

33. On August 25, 2025, the Noticee submitted a written submission stating to highlight several misappropriate actions by the Company by selective disclosure, concealment of material facts, and actions undertaken without the authority of the Board. The submissions of the Noticee, in brief, are as under:

- a. The Company Secretary concealed that the Noticee was MD of PEL and was operating from the same office and on June 13, 2024, unilaterally directed the sealing of CMD's office without approval from the Board of Directors of the Company.
- b. Mr. Harish Saran being a candidate for the post of Director (Commercial & Operations) concealed his interest and made false submissions before SEBI. He resigned from the Board of Directors of the Company on June 6, 2025 and assumed charge as MD of Hindustan Power Exchange, which is promoted by PTC India on June 9, 2025.
- c. The Company Secretary has wrongly personified himself as ED(IT) in regulatory submissions and did not rectify the error. On June 12, 2024, the Company Secretary addressed the media without a resolution of the Board of Directors and made public statements in excess of his authority.
- d. An email from Sushma Saksena to SEBI was improperly treated as emanating from an Independent Director, but was not clarified by CS to SEBI despite serious implications. The CS also concealed to Board that Mr. Manoj Jhawar was on probation and not a confirmed WTD on 12th June 2024.



- e. The replies made to SEBI in the present inquiry have neither been reviewed nor approved by the Board of Directors of the Company, lacking legal validity.
- f. The reply dated 18 July 2025 submitted by Mr. Rajiv Maheshwari, being conflicted, as he has acted to shield his own omissions and misstatements. A Company Secretary, under Section 2(51) of the Companies Act, 2013 and SEBI (LODR) Regulations, 2015, is authorised only to authenticate documents and communicate Board-approved decisions.
- g. The Company Secretary and management have arbitrarily declared that the Noticee has **'ceased to be CMD / Whole-Time Director' on 12th June 2024, without any Board resolution, shareholder approval, termination notice, or compliance with Section 169 of the Companies Act, 2013.** This action is *void ab initio*, as removal of a director requires shareholder approval in a general meeting.
- h. It is relevant that the Hon'ble Securities Appellate Tribunal (SAT), by interim order dated 21 June 2024, and directed that 'status quo shall be maintained until the next date of hearing.' Despite this, without any Board resolution, the CS filed an MA dated 11 July 2024 before Hon'ble SAT to challenge the stay order, engaging private senior counsel and incurring heavy legal fees. This step was wholly unnecessary and unauthorized, raising serious governance concerns.

Consideration of Issues and Findings.

34. I have carefully considered the allegations made in the SCN, the replies and submissions of the Noticee, the information/ documents received from the Company and the documents such as the examination report, relied upon in the matter. Before dealing with the issues raised in the SCN, I deem it appropriate to first deal with the technical objections raised by the Noticee.

Res judicata

35. The Noticee has contended that the present proceedings are barred by *res judicata* as the issues raised herein have already been raised by SEBI in its submission dated July 30, 2024 before Hon'ble SAT in Appeal No. 371 of 2024. He has stated that in the said Appeal, Hon'ble SAT vide its Order dated December 11, 2024, has categorically given the finding that all allegations against the Noticee are baseless and that no appeal has been made by SEBI against the said Order the findings therein have attained finality.



36. The doctrine of *res judicata* refers to a situation when a case, in which there has been a final judgment, the litigation of the same case is barred as provided in section 11 of the Code of Civil Procedure, 1908 (CPC) that embodies the rule of conclusiveness of a judgment. It prevents the parties to a judicial determination from litigating the same question over again even though the determination may even be demonstrated wrong. They cannot litigate again on the same cause of action nor can they litigate any issue which was necessary for decision in the earlier litigation. Similarly, if once an issue has been finally determined, parties cannot subsequently in the same proceedings advance arguments or adduce further evidence directed to showing that issue was wrongly determined. Their only remedy is to approach the higher forum if available. In order to apply the doctrine of *res judicata* it is an essential requirement that the actual issues in the two proceedings are identical.
37. On a careful perusal of the SAT Order dated December 11, 2024, and the submissions of SEBI in the proceedings therein, I note that the said proceedings were with respect to the conduct of the Noticee as the non-executive Chairman of PTC India Financial Services Ltd (PFS) for which an order dated June 12, 2024 was passed by the WTM- SEBI. In the Appeal filed by the Noticee against said order of SEBI, Hon'ble SAT vide its Order dated December 11, 2024, has categorically given the finding that all allegations against the Noticee are baseless. As no appeal has been made by SEBI against the said Order the findings therein have attained finality. The relevant extracts of the observations of Hon'ble SAT in the said Order are as follows:

“12.07 It is relevant to record that firstly the independent directors had made their request to the Noticee No. 1 and not to the Appellant. Secondly, the independent directors went ahead and decided to appoint an Advocate themselves and obtain legal advice. The gap between their initial request and their decision to appoint an Advocate is about 8 days which cannot be considered as undue delay. Thirdly, the appellant had instructed the HR department of PTC to give the information sought by the independent directors. Fourthly, Ms. Renu Narang was withdrawn by NTPC. Fifthly, RoC had addressed the issue with regard to conducting meeting of NRC and not held the appellant responsible.

.....

13.03 Learned Advocate for the appellant submitted that the WTM has noted in the impugned order that Mr. Ratnesh had rejoined NTPC on December 6, 2021. Therefore, he could not have been invited for the Board meeting scheduled on January 22, 2022. He is right in his contention. Therefore, the allegation of not inviting Mr. Ratnesh and the meeting becoming invalid is untenable. Further, we may record that it is the duty of the Company Secretary to provide guidance with regard to proper conduct of meetings. We also note that the Independent



Directors while raising certain issues in their emails sent during 2021 never sought for those issues to be discussed in the board meetings. Thus, there is no doubt that there was lack of clear communication between the Independent Directors and the management, however, we may note that the Independent Directors themselves had graded the flow of information between the management and the board as excellent in the meeting held on October 5, 2021.

.....

14.03 As noted in the Impugned Order, Section 177 of the Companies Act, 2013 provides that the Audit Committee shall be constituted by the Board. The Board had constituted the Audit Committee. SEBI's direction was not to change the composition of the Board. Therefore, SEBI contention that SEBI's instructions also included not making any change in the audit committee also, is without any merit and liable to be rejected.

.....

15.03 It is true that the Chairman of the Audit Committee had flagged the issues in functioning of the Audit Committee with respect to Noticee No. 1. The Respondent's charge is not that the Appellant was responsible but that he was aware of the shortcomings pointed out and yet, did not take remedial steps. In our view, once the respondent holds that appellant is not responsible, nothing further survives for consideration.

.....

18. On a careful perusal of the allegations leveled against the appellant and the contentions urged on both sides, for reasons recorded hereinabove, we are of the view that all the allegations against the appellant in Issues Nos. 1 to 4 are baseless. Therefore, the directions contained in paragraph No: 253 of the impugned order qua the appellant are unsustainable and liable to be quashed. The appellant, has suffered the order for about 6 months for no fault."

38. The cause of action in the proceedings therein was the resignation letters of three IDs of PFS and one ID of PTC India between January 19-21, 2022, raising allegations with regard to the corporate governance issues in PFS (a subsidiary of PTC India Ltd.). Whereas, the present proceedings arise from media articles reporting possible lack of corporate governance and raising concerns about the conduct of NRC of PTC India Ltd. and the selection process for the post of its CMD. An article titled '*PTC India appoints Rajib K Mishra as CMD despite regulatory cloud*' dated June 20, 2023 has been annexed as annexure-2 to the SCN. I note that the issues raised, cause of action and the Company examined in both these proceedings are completely different.

39. In light of the aforesaid, I find that the issues raised in the present proceeding are different and independent of the issues raised in the proceeding which culminated in SAT order dated December



11, 2024. As such, I find no merit to the contention of the Noticee that the present proceedings are barred by the Doctrine of *res judicata*.

Disciplinary Proceedings being barred as the Noticee is a retired individual.

40. Another technical objection raised by the Noticee is that being a retired private citizen who has received his gratuity amount and other dues from the Company, no proceedings can be initiated against him. The Noticee has placed reliance on the judgement of the Hon'ble Supreme Court (SC) in the matter of ***State Bank of India & Ors. Vs. Navin Kumar Sinha*** in support of his contention. I note that the said judgement deals with the disciplinary proceedings against an officer of State Bank of India, wherein Hon'ble SC held that no disciplinary proceeding can be initiated after the delinquent employee or officer retires from service, however a subsisting disciplinary proceeding, i.e. one initiated before superannuation of the delinquent officer may be continued post superannuation by creating a legal fiction of continuance of service of the delinquent officer for the purpose of conclusion of the disciplinary proceeding. In my view that the said Judgement of Hon'ble SC is not applicable, as the present proceedings are a Quasi-Judicial proceeding initiated under the SEBI Act. I therefore, find no merit to this preliminary objection raised by the Noticee.

41. As regards, submissions of the Noticee on August 25, 2025, it is noted that the same are to be agitated elsewhere. If at all the act of the Company or its Company Secretary are against law as contended the same are beyond the scope of these proceedings. I, therefore, leave them as they are.

42. Having dealt with the preliminary issues of the Noticee, I now proceed to deal with the allegations. The provisions of law, alleged to have been violated by the Noticee, as applicable at the relevant time, are as follows:

“LODR Regulations, 2015

Regulation 2: Definitions

(1) In these regulations, unless the context otherwise requires:—

(e) “chief executive officer” or “managing director” or “manager” shall mean the person so appointed in terms of the Companies Act, 2013;

Regulation 4: Principles governing disclosures and obligations

(2) The listed entity which has listed its specified securities shall comply with the corporate governance provisions as specified in chapter IV which shall be implemented in a manner so as to achieve the objectives of the principles as mentioned below.



*(a) **The rights of shareholders:** The listed entity shall seek to protect and facilitate the exercise of the following rights of shareholders:*

(vii)adequate mechanism to address the grievances of the shareholders.

*(f) **Responsibilities of the board of directors:** The board of directors of the listed entity shall have the following responsibilities:*

(i)Disclosure of information:

(1) Members of board of directors and key managerial personnel shall disclose to the board of directors whether they, directly, indirectly, or on behalf of third parties, have a material interest in any transaction or matter directly affecting the listed entity.

(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.

(ii)Key functions of the board of directors-

(2) Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.

(6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.

(7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

(iii)Other responsibilities:

(2) The board of directors shall set a corporate culture and the values by which executives throughout a group shall behave.



(3) Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders.

(6) The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders.

(12) Members of the board of directors shall be able to commit themselves effectively to their responsibilities.

(14) The board of directors and senior management shall facilitate the independent directors to perform their role effectively as a member of the board of directors and also a member of a committee of board of directors.

Regulation 17: Board of Directors

(1) The composition of board of directors of the listed entity shall be as follows:

(a) board of directors shall have an optimum combination of executive and non-executive directors with at least one woman director and not less than fifty per cent. of the board of directors shall comprise of non-executive directors;

Provided that the Board of directors of the top 500 listed entities shall have at least one independent woman director by April 1, 2019 and the board of directors of the top 1000 listed entities shall have at least one independent woman director by April 1, 2020.

Explanation: The top 500 and 1000 entities shall be determined on the basis of market capitalisation, as at the end of the immediate previous financial year

(b) where the chairperson of the board of directors is a non-executive director, at least one-third of the board of directors shall comprise of independent directors and where the listed entity does not have a regular non-executive chairperson, at least half of the board of directors shall comprise of independent directors:

Provided that where the regular non-executive chairperson is a promoter of the listed entity or is related to any promoter or person occupying management positions at the level of board of director or at one level below the board of directors, at least half of the board of directors of the listed entity shall consist of independent directors.



Explanation.- For the purpose of this clause, the expression “related to any promoter” shall have the following meaning:

- vi. if the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it;*
- vii. (ii) if the promoter is an unlisted entity, its directors, its employees or its nominees shall be deemed to be related to it.*

Code of Conduct for Board of Directors and Senior Officials of PTC India Limited

Clause 4: KEY FUNCTIONS OF THE BOARD

The board shall fulfil certain key functions, including-

(ii) Monitoring the effectiveness of the company’s governance practices and making changes as needed.

(v) Ensuring a transparent board nomination process with the diversity of thought, experience, knowledge, perspective and gender in the Board.

(vi) Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions.

(vii) Ensuring the integrity of the company’s accounting and financial reporting systems, including the independence of audit, and that appropriate systems of control are in place, in particular, financial and operational control, and compliance with the law and relevant standards.

Clause 5: RESPONSIBILITIES OF THE BOARD

(ii) The Board should set a corporate culture and values by which executives throughout the company will behave.

(iii) Board members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the company and the shareholders.

(vi) The board should apply high ethical standards. It should take into account the interests of stakeholders.



(xiii) The Board and Senior Officers should facilitate the Independent Directors to perform their role effectively as members of the Board and also as members of any committee.

Clause 7: DUTIES OF DIRECTORS

(iv) A director of the Company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the Company.

Clause 8: CONFLICTS OF INTEREST

A Director's and Senior Officer's duty to the Company demands that he or she avoids and discloses actual and apparent conflicts of interest. A conflict of interest exists where the interests or benefits of one person or entity conflict with the interests or benefits of the Company. Examples include:

E. Corporate opportunities. Directors and Senior Officers may not exploit for their own personal gain the opportunities that are discovered through the use of corporate property, information or position, unless the opportunity is disclosed fully in writing to the Company.

SEBI Act, 1992

Section 27: Contravention by companies.

(1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be



liable to be proceeded against and punished accordingly. Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Companies Act, 2013

Section 2: Definitions-

(54) “managing director” means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.

Explanation.— For the purposes of this clause, the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within the substantial powers of management;

(60) “officer who is in default”, for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely:—

(i) whole-time director;

(ii) key managerial personnel;

(iii) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;

(iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;



(v) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;

(vi) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;

(vii) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer;”

Applicability of Regulations.

43. It is noted that all the above provisions create obligations of the Board of Directors of the listed entity. IN the instant case, neither Company nor its officer in default has been charged and the enforcement proceedings have been initiated against individual alleging personal default and also making him a Noticee as an “officer of default” of the Company that too without making the Company a party. This concept applies when proceedings are initiated under the Companies Act,2013 for default by a Company. Section 27 of the SEBI Act recognises vicarious liability of directions for contravention of SEBI Act or regulations made thereunder by a company. In this case, the proceedings are vitiated on this count also when an individual has been proceeded with alleging personal acts and omissions and no fault has been found on the part of the Company or its Board of Directors.

Enforcement action/s against individuals.

44. The provisions of LODR Regulations and principles enunciated by provisions relating to role of independent directors, NRC, RMC, Audit Committee, management responsibilities, internal control etc. have marked a quantum change in corporate governance and the rule of law. First and foremost, the LODR Regulations perceive good corporate governance, respect for and adherence to the rule of law as central to the investors’ protection. Second, the LODR Regulations perceive corporate governance and management responsibilities towards all the stakeholders in the listed enterprise not as an isolated problem faced by it as an individual business entity but places it in the context of a framework which is founded on public interest in facilitating economic growth by balancing diverse stakeholders’ interests. Third, the LODR Regulations attribute a primacy to the minority shareholders’ protection by the majority and management acting as a collective body so as to ensure the growth of shareholders and encourage investment culture in the economy. Fourth, in its diverse provisions, the LODR Regulations ensure that the interests of stakeholders are not conflated with the interests of their promoters; the economic value of entity is broader in content



than the partisan interests of their managements. The intention and purpose of the said provisions is to protect the investors from mismanagement and dissuade the errant directors. Now it is not unknown in the corporate world especially the matters of listed enterprises that the public, before investing or depositing, looks to the names of the directors and finding them reliable starts investing.

45. These salutary objectives of the LODR can be achieved if the integrity of the management decisions is placed at the forefront. The provisions relating to corporate governance as alleged in this case, help to ensure that the Company is run ethically and responsibly which can protect investors and other stakeholders from harm and partisan approach of management. However, when proceeding for penal enforcement actions/s against individuals, utmost care need to be taken having due regard to her reputation, career, character and integrity and the entire gamut of facts and circumstances under which any particular act or omissions have been observed so as to clearly and strongly establish irresponsible, unethical and partisan conduct for keeping personal interest over and above the interest of investors and other stakeholders.
46. Enforcement actions, exclusively against individual Chairperson /CMDs of body corporates for any deviant behaviour in the board meeting process or internal administration control where independent directors, Nominees from Central Government have also participated and agreed for same decisions, must be cautiously initiated after detailed inquiry lest the Board's of many Body Corporates could face such actions for any minor defiance of LODR Regulations or other applicable laws. At the same time, the enforcement measure taken by SEBI with a preventive and remedial object, as envisaged under the SEBI Act, would not serve the purpose unless the directions bring within its fold the punitive actions for glaring misconduct. In order to give true and purposeful meaning, it is required that the measures taken by Regulators and Governments to use corporate governance as a tool to protect the interests of stakeholders, so as to ensure that the problems which beset the earlier regime do not enter through disingenuous stratagems. It is submitted that the object of these provisions is to ensure good corporate governance which has direct nexus with protection of investors' interests. It is true that the Company which is very well managed can also suffer loss for the reason which had nothing to do with the management of the Company. Conversely, profit making by a Company has absolutely no nexus to good corporate governance. But what is expected by the provisions is preventive and protective approach and not as an approach to destabilise the corporate culture of entrepreneurship. Therefore, it becomes incumbent to be cautious and strike a reasonable balance as to whether a particular case attracts penal actions. The procedural requirements also must be carefully and strictly followed. After all, the cases like the present one



are not related to market abuse or market integrity but are those related to disciplining the individual or for protecting the listed enterprise from her misconduct.

47. Keeping above approach in mind and after inquiring into the matter as necessitated by law and facts examined by SEBI both, I proceed to examine the merits of each of the allegations for the purpose of deciding whether the case deserves any enforcement action by way of direction and also by way of adjudication and imposition of momentary penalty.

Inaction and failure to constructively deliberate on the concerns raised by four independent directors in their resignation letters

48. I note that three IDs of the Company viz. Ms. Sushama Nath, Mr. Jayant Gokhale and Mr. Subhash S. Mundra resigned from the Board of the Company on December 05, 2022, whereas another ID, Ms. Preeti Saran resigned on December 06, 2022, *inter alia*, citing the following corporate governance issues:

- a. Inaction on the corporate governance issues in PTC India Financial Services Limited (PFS), a material subsidiary of the Company.
- b. Board of Directors of the company did not take proactive approach to guide subsidiary PFS to address the shortcomings in governance despite being pointed out by resigning independent directors.
- c. Downslide approach and dismissive attitude of the Board of Directors of the Company towards independent directors.
- d. Meetings of the board of the Company were called on shorter notice, citing urgency.
- e. Proceedings in Risk Management Committee (RMC) and Board of Directors of the Company in considering the RMC Report in the matter of PFS was not fair and proper.
- f. There was delay after submission of RMC Report for the Chairman to take necessary consequential actions. In spite strong reservations of the independent directors, the Board of the company, by majority (which included only one independent director) adopted the RMC Report.



- g. Company is working without regular CMD since November 06, 2021.
- h. Observations of independent directors on certain modifications in the process itself and in adopting uniform eligibility criteria were not taken into account.
49. The examination report observes that the resignations of the 3 independent directors, who had resigned on December 05, 2022, were taken up for discussion in the 167th meeting of the Board of Directors of the Company held on December 06, 2022, only after it was pointed out by Mr. D.S. Saksena, independent director of the Company. The resignation letters were thereafter taken note by the Board of Directors of the Company. Similarly, the resignation tendered by Ms. Preeti Saran on December 06, 2022 was only taken note by the Board of Directors on December 07, 2022 i.e. when the 167th meeting was resumed. A clarification covering these two concerns was submitted by the Company to the Stock Exchanges vide letter dated December 08, 2022. In the said letter, it has been, *inter alia*, mentioned that “*the management of PTC reviewed all the issues raised by these four Independent directors and submitted their replies to the Board of Directors of PTC and the PTC’s Board has taken note of the same in its meeting held on 7 December 2022.*”
50. On a bare perusal of the minutes of the 167th and adjourned 167th meeting of the Board of Directors of the Company held on December 06-07, 2022, I note that the resignation of the four IDs has been brought to the notice of the Board of the Company and the Board has changed the constitution of the audit committee in light of the resignations. Further, discussion has also been done with respect to the filing of vacancies of IDs in light of the resignations of the four IDs. The relevant extracts of the said minutes read as follows:

167th Board meeting of the Company

“1540. It was informed that (i)....(ii) Shri Jayant Purushottam Gokhale, Shri Subhash S. Mundra and Ms. Sushma Nath have resigned as Independent Directors on the Board of PTC India Ltd w.e.f. 05.12.2022.

The Board noted the same and placed on record its appreciation for their contributions as Board member.

.....

1547. Reconstitution of Audit Committee

It is informed that Shri Jayant Purushottam Gokhale and MS. Sushama Nath have resigned from the Board of PTC, who were also part of the Audit Committee as Chairman and Member of Committee respectively. Therefore, the Committee needs to be reconstituted so that it can review



the unaudited standalone and consolidated accounts for first quarter/ second quarter and half year for FY 22-23 with the management.”

Adjourned 168th Board meeting of the Company

“1548. It was informed that Smt. Preeti Saran has resigned as Independent Director on the Board of PTC India Ltd on 06.12.2022. Board noted the same.

.....

Smt. Parminder Chopra, Director stated that post resignations of four IDs from the Board of PTC, the company should fill the vacancies of the IDs within the stipulated timeline as per the SEBI (LODR) and thereafter, the Committees of the Board may be reconstituted to ensure adequate representation of IDs in each of the Committee.”

51. In view of the aforesaid extracts of the minutes of the meeting of the Board, the lack of long deliberation on the issues raised by the resigning IDs does not in itself lead to the clarification being incorrect. Once the issues raised in the resignation letters of the resigning IDs was brought to the notice of the Board of the Company, it was upon the members therein to deliberate or to reject the issues raised by the resigning IDs. I find that, the rejection of the issues raised by the resigning IDs by the Noticee did not in any way prevent other members to record their objections to the same or to present their views on the issues raised. In view of the same, I find that the clarification to the stock exchanges on December 08, 2022 was not incorrect.

52. I note from the minutes of the 168th board meeting of the Company held on January 19, 2023 that the issues raised by the resigning IDs have been discussed by Shri R.N. Misra, Chairman of NRC at relevant time and the Noticee. Such discussion/ deliberations/ submissions could also have been made by the other members of the Board of the Company, if deemed fit by them. Accordingly, the absence of such discussion/ deliberations/ submissions by other members does not lead to the Noticee being liable. I also find that the Noticee being CMD (Addl. Charge) of the Company had the right to express his views on the issues raised by the resigning IDs and such conduct did not in any way hamper the discussion of the Board. The relevant extract of the minutes of the 168th Board meeting of the Company is as under:

“1555. Item no. 168.2.3 Resolution(s) by Circulation

The Board noted that the following resolutions no. 2/2022-23 and 3/2022-23 were passed by the Board by circulation:

(i)....

(ii) Appointment of Shri Prakash S. Mhaske as Independent Director



“Resolved that pursuant to Section 149 and 161 and other applicable provisions of Companies Act, 2013 and rules made thereunder and as per the recommendation made by the Nomination & remuneration (N&R) Committee, Shri Prakash Mhaske, former Chairman CEA (DIN- 08512385) be and is hereby appointed as an additional director and designated as Independent Director on the Board of the Company for a period of three years with effect from 16th January, 2023 subject to the approval of shareholders at the ensuing Meeting or through postal ballot.”

.....

With the permission of Chair, Shri R.N. Misra, Chairman, RMC stated that it may be recalled that the four IDs resigned in first week of December, 2022 who made certain allegations against Chairman, RMC, Promoter’s nominee Directors and Government nominee Director. He stated that these allegations are unfortunate, highly objectionable and unfounded and against Corporate Governance norms. Shri Misra further stated that the resigning directors have alleged that the Chairman RMC incorporated only his version and that of the nominee director in the Report of the RMC. The fact is that the para 49 of RMC report exclusively contains the views of Mr. Jayant Gokhale and Mrs. Preeti Saran. He further pointed out that both these members had commented on the draft RMC report only on the issues related to Mr. Ratnesh, NSL case and KPMG report. On the other points raised by resigning IDs as covered in RMC report, they did not offer any comments or disagreement with the RMC report. It is also to be noted that the KPMG report was not included in the “Terms of Reference for RMC” approved by Board of PTC. In respect of various comments/ conclusions made by MR. Gokhale and Mrs. Preeti Saran, factual position in seriatim para wise in a tabular form has also been also brought out in Annex-27 of RMC report. Shri Misra further stated that Mr. Jayant Gokhale has alleged that meetings of RMC were scheduled without regard to next meeting or RMC was fixed on the date decided in the meeting itself or after due consultation and only after consent of all members where convenience of Mrs. Preeti Saran and Mr. Gokhale was given highest priority and in fact, all the RMC meetings were attended by both of them. He further mentioned that the resigning independent directors have wrongly mentioned that the RMC report on PFS issues was accepted by Board with 7:5 majority, whereas, it was accepted by the Board with 7:4 majority. Shri Misra stated that it is established law that once a decision has been taken by Board either unanimously or by majority that is binding on every members of Board and that cannot be questioned after final minutes of meeting have been noted. However, the resigning independent directors have commented on the said decision making of the PTC Board, which is highly unfortunate as the minutes of Board meeting was confirmed in later Board meeting of PTC attended by these resigning Independent Directors. Shri Misra referred to the statement made by Shri S.S. Mundra that they abided by the majority view in accordance with the normal corporate practice. The statement of Shri Mundra vindicates the position that decision of Board was accepted by all of



the resigning directors and now raising this issue and pointing fingers on nominee directors of promoter, government nominee director and one Independent director by these resigning Independent Directors is against all ethical standards expected from independent directors. Shri Misra stated that in view of above facts, he has personally felt deeply hurt by such unwarranted remarks of these resigning Independent Directors. He added that if needed by the Board, he will place all these things in the form of a letter before the board. The Board noted the same and advised him to submit his written submission for record.

CMD (Addl. Charge) stated that four IDs resigned in first week of December, 2023 have also mentioned that meetings are called at shorter notice, however, most of the meetings have been and being planned by PTC in advance and the notice has been served. Only those meetings wherein some agenda is to be deliberated on urgent basis has been scheduled at shorter notice. The Board noted the same.”

53. As per section 205(1)(b) of the Companies Act, 2013, it is the function of the company secretary to ensure that the company complies with the applicable secretarial standards. I note that the said secretarial standards provide for the conduct to be followed in convening a meeting, including the frequency of meetings, attendance at the meetings, etc. Regulation 6(2)(b) of the LODR Regulations provide that it is the compliance officer of the Company that is responsible for the ‘*co-ordination with and reporting to the Board, recognised stock exchange(s) and depositories with respect to compliance with rules, regulations and other directives of these authorities in manner as specified from time to time.*’. In view of the aforesaid provisions, I note that it is the responsibility of the compliance officer and company secretary of the Company to ensure that meeting of the Board of the Company is conducted in appropriate manner and that the disclosures/ clarifications before the stock exchanges are correct. I note that no examination has been done by SEBI into the role of the company secretary or the compliance officer and the Noticee has been alleged to have liable for all these alleged acts being the CMD (Addl. Charge) of the Company.

54. I also note that no objection to the statements made by the Noticee has been taken by any of the members therein and the minutes have been unanimously approved by the entire board of the Company. In para 15.2 of the examination report it has been acknowledged that the resignation letter of the IDs was addressed to the entire board of the Company. Thus, they were already aware of the concerns raised in the resignation letters. Thus, it is established that the letters of resignation of the IDs was accepted and noted by the Board of Directors of the Company in its 167th meeting held on December 6, 2022 including a statement of the Company Secretary, recorded therein that all the board members took cognisance while approving (noting) the same.



55. In light of all the above, I find no merit to the allegations.

Influencing the process of appointment of Chairman and Managing Director

56. The examination report observes that despite being a potential candidate seeking appointment as CMD of the Company, the Noticee –

- a. attended the 29th, 30th, 31st and 32nd meetings of the NRC (held on February 18, 2022, July 25, 2022, October 08, 2022 and January 10, 2023, respectively) and did not recuse when discussion was held on filling up the post of CMD, eligibility criteria, advertisement for the post etc., and accordingly was privy to the deliberations at NRC despite having conflict of interest in the matter;
- b. being a potential candidate for the post of CMD, was not only present in the NRC meetings and was privy to all the deliberations by NRC members; but also participated in the discussions on agenda item for filling up of vacancy of CMD and influenced NRC decisions.
- c. ignored; rather rejected; the concerns raised and the suggestion made by the majority of the independent directors and Chairman of NRC who was subsequently removed;
- d. attended the 165th meeting of the board of the Company held on November 02, 2022, and did not recuse instead participated in discussion on agenda for filling up the post of CMD-approval of draft of the advertisement;
- e. relevant agenda item for this board meeting was not circulated in advance as required by Regulations;
- f. attended the 32nd meeting of the NRC held on January 10, 2023 i.e. even after the last date for application of which was January 02, 2023, and was present throughout the discussion on further course of action including calling of shortlisted candidates for personal interview, etc.
- g. did not even inform the NRC about his interest and did not recuse from the discussion on this matter in NRC and board meeting.



57. The examination report also observes that the contributions made and views expressed by the Noticee in NRC meetings, were not recorded in its minutes, however, he influenced NRC during its discussions on the basis of the following statements recorded from the video recording of the NRC meetings:

a. **30th meeting of NRC held on 25.07.2022:** - Noticee attended and provided input, as per the video recording of the meeting, as under:

“...Ye Company private company ki tarah chal rahi hai Sir isme na aapko arm forces ke log chahiye na ministry ke log chahiye, waha per bhi aap logon ne additional secretary ko dilute kiya hai Sir, mera isme request yahi hai ki Sir waha additional secretary rehne dijiye and yaha joint secretary rehne dijiye. Koi aadmi risk toh le Sir, dekhiye humara yaha koi ED hai 20 saal se Sir risk le kar, public sector chor k aaya hai toh usne risk liya hai na Sir, toh usko thoda advantage lene dijiye....”

b. **31st meeting of NRC held on October 08, 2022-** Noticee was present and participated in the **discussion** on agenda for appointment of CMD and gave his inputs on why years of experience must be kept as 25 years, the text of some of his input in the meeting in this regard, as per the video recording of the meeting, is as following: -

“.....There is a discrepancy from management side, let me tell you why. When we are giving the same experience for Director as well as the Chairman, there has to be difference. In the past also we have kept this difference and we can see that people who have been elevated from Director to Chairman, they at least spend five years of service as whole time director.....”

“Internal candidate should be given weightage not only for one particular positions but all positions and normally the Company have the policy but PSB also encourages that, that is one thing I want to mention to the NRC”

c. **32nd meeting held on January 10, 2023-** Noticee participated even after applying for the post of CMD. He was also privy to the information with regard to applications received and being scrutinized by the HR **department** of the Company. The text of some of his input in the said meeting influencing NRC, as per the video recording of this meeting, is as under:



“10 din nahi Sir. PSB ke norms pe chaliye, PSB ka norm hota hai Sir 1 week ka time kyuki Sir aajkal airfare denge aap unko train se toh bulayenge nahi. Baahar ka candidate hoga toh airfare denge and Delhi ka candidate hoga toh apni gadi se ayega, toh 1 week ka time dijiye Sir jis din decide kijiye uske 1 week ke baad interaction kar lijiye....ye practice humne pehle bhi follow ki hui hai.”

“Mere hisaab se maine jo HR se just meeting me aane se pehle pucha toh ye keh rhe hai ki 16 se 17 tareekh tak, jaise 2 tareekh ko last date thi CMD wali and 6 tareekh ko last date thi inki Director wali, toh inhone 2 week ka time maanga hai ki hum shortlist kar lenge... Toh inka kaam 16-17 tareekh tak ho jayega uske baad kisi bhi din ki date jo apko convenient ho aap NRC meeting kar sakte hai.....ye matrix aapko bana ke denge ki who are the candidates who meet the criteria aur wo with CV hoga, sabke CV usme attach honge, jitney bhi eligible candidates honge unke CV ke sath honge aur sab members k pas honge toh aap log usko assess kr lijiye and dates finalize kijiye then we will do the interview.”

... Jo in logo ne abhi tak shortlisting ki hai usme wahi 8 se 10 candidate ayenge eligible. Jo ye 28 aur 30 bata rhe hai number.”

58. The examination report has made the following observations with respect to the meetings of the NRC and the Board of Directors of the Company:

- a. In the 30th meeting of NRC held on July 25, 2022, Mr. D.S. Saksena, independent director and Chairman of NRC raised objection to having different age criteria for internal candidates (WTD) and external candidates and proposed to keep superannuation age of 62 years for both internal and external candidates so that the external candidate would also have sufficient tenure, which was not accepted by other two NRC members i.e. Mr. V.K. Singh and Mr. R.N. Misra and they had inter alia stated that the existing WTD has superannuation age as 62 years as per previous decision of the Board in 2018 and that a suitable candidate can make difference in short term.
- b. Mr. D.S. Saksena independent director and Chairman of NRC, at its 31st meeting held on October 08, 2022, had pointed out that in the minutes of the last NRC meeting (30th), minimum 20 years' experience was prescribed for the applicants for the post of CMD, which has been increased to 25 years in the draft advertisements placed in the 31st meeting of NRC. The reason for such change as given by the other two NRC members as recorded in the minutes of the 31st



meeting of NRC was that “*minimum years of experience for the post of CMD and Director (Commercial & Operations) cannot be the same.*” After deliberation, NRC approved the said change. Mr. Harish Saran, ED-HR of the Company has vide submissions dated July 10, 2024, informed SEBI that changes were made in draft advertisement on verbal direction of the Noticee.

- c. In the draft advertisement for the post of CMD as placed before NRC in its 30th meeting, it was stated that the applicant for the post of CMD must be from a Company having the annual turnover of Rs.2000 Crore or more was eligible. It was also mentioned that “*Preference would be given to the candidates from listed companies.*” The eligibility criteria for the post of CMD placed before and approved by NRC during its 30th meeting, Section “*Experience*” at Sr. no. 4, *inter alia*, read as follows:

“4. Experience

He should possess minimum 25 years of service in Group A service of State/ Central Govt, in a central public sector undertaking or in any large organization of repute. Applicant should possess at least recent experience of 5 years in power sector at senior level.”

- d. Noticee, also insisted NRC in its 30th meeting to make applicants holding position of Additional Secretary to be eligible to apply for CMD post while applicants holding position of Joint Secretary should be made eligible to apply for Director C&O post. In the draft advertisement placed in the 31st meeting of NRC the working experience in a listed company was made mandatory criteria and the requirement of experience in power sector was increased to 10 years out of which 5 years should be at senior management level. The said modified requirement in the draft advertisement was as under:

“6.0 EXPERIENCE

Applicants should possess minimum 25 years of service in Group ‘A’ service of State/ Central Government, in a Central Public Sector Undertaking or SPSE/ Pvt. Company where the annual turnover is Rs. 2000 crore or more during the three financial years preceding the calendar year in which the post is advertised. Applicant should have recent experience of 10 years in Power sector and out of which 5 years should be at senior level of management”

- e. No such change was proposed by the NRC members in the 30th NRC meeting. When, in 31st NRC meeting, Mr. D.S. Saksena the independent director and Chairman of NRC questioned and asked for reasons for such change in the draft advertisement, Mr. VK Singh and Mr. R.N. Misra responded that the same was required for the post.



- f. For the post of CMD, the superannuation age criteria for external candidate (WTD/CMD) was 60 years and for internal candidate (WTD/CMD) it was 62 years. When Mr. D.S.Saksena the independent director and Chairman of NRC asked to make superannuation age 62 years for external/internal candidates both two other NRC members viz; Mr. VK Singh and Mr. R.N. Misra supported the two different superannuation age criteria for internal and external candidates so that Noticee the existing WTD would get benefit of this 62 years superannuation age and taking a stand that a suitable candidate can make difference in short term. The examination report observes that this stand of the said two other NRC member was to camouflage the design to support appointment of the Noticee as CMD who, according to Mr. D.S. Saksena has had unstinting support of Mr. V.K. Singh and Mr. R.N. Misra.
- g. The fact that Mr. V.K. Singh and Mr. R.N. Misra were in support of Mr. Rajib Kumar Mishra, the potential beneficiary of such decisions is further corroborated by the fact that they both have mechanically and repeatedly opposed the suggestions of Chairman of NRC who had been raising concerns on the conduct of the Noticee. Furthermore, Mr. V.K Singh was a nominee director nominated by Power Grid Corporation of India Limited, a promoter of the Company.
- h. In the 165th meeting of the Board of the Company held on November 02, 2022, while considering the draft advertisement for the post of CMD and Director (Commercial & Operations), three more independent directors viz. Mr. S.S. Mundra, Ms. Sushama Nath and Mr. Jayant Gokhale raised similar objections for keeping the different superannuation age criteria for internal (WTD/CMD) and external candidates for the post of CMD and also suggested to have higher superannuation age for external candidates as well so that the selected candidate have reasonable tenure. However, the Noticee, being Chairman of the Board of Directors of the Company, failed to facilitate constructive dialogue on this matter as the matter was abruptly decided. Thus, the Noticee not only ignored but rejected the suggestion of majority of independent directors.
- i. In terms of regulation 19(4) read with schedule II part D of the LODR Regulations the role of NRC is to identify and recommend to the Board of the Company, suitable candidates for the post of directors and senior management. However, ultimate decision with regard to appointment lies with the board of the Company. However, the draft advertisement, though recommended by NRC in its 31st meeting held on 08.10.2022 i.e. 24 days prior to the 165th board meeting, was not circulated to members of Board of Directors in advance as agenda for the said meeting and the same was tabled as an additional item. Mr. Jayant Gokhale, an



independent director, had objected for not giving sufficient time to the board members by providing the same in advance.

- j. Mr. D.S. Saxena, in his email dated July 17, 2023 to SEBI pointed out that that the agenda notes of the aforesaid board meeting made no mention of management's intention to change the composition of any committee. The changes in composition of NRC was proposed as *fait accompli* by the management. He also stated that he was not aware of the fact as to why Mr. Harish Saran, ED-HR, who was asset to NRC, was removed from the process. In 31st meeting of NRC held on January 10, 2023, there was detailed discussion about –
- (a) how NRC will go ahead with shortlisting of candidates for the posts of CMD and WTD in next NRC meeting
 - (b) personal interaction with the candidates and
 - (c) it was even suggested that all NRC members will be physically present for the personal interaction.
- k. However, Mr. D.S. Saxena who had raised objections with regard to the process and eligibility criteria for the post of CMD on various occasions, was abruptly removed from the post of the Chairman of NRC when the selection process was at an advance stage and Mr. R.N. Misra who was supporting the Noticee was made Chairman of the NRC.
- l. The scrutiny of the received applications for both the posts was done by two persons i.e. SVP (HR) and AVP (IT) who were picked by management headed by the Noticee. When SEBI, vide email dated July 10, 2023, asked the Company to explain the HR guidelines for screening the applications explaining each parameter taken into consideration for accepting/rejecting the application and to explain how did the HR department ensured a transparent process, when one of the applicant is the WTD of the company, the Company failed to provide any explanation except that SVP (HR) who was reporting to ED (HR) has handled the process for appointment under guidance of NRC.
- m. Ms. Koel Mallick Singhal, SVP (HR) in her written submissions to SEBI, *inter alia*, stated that during the month of November 2022, she was verbally communicated by the Noticee and Mr. Harish Saran (ED-HR) to assist NRC in the existing Board level vacancies namely CMD and Director (C&O) hiring. She also stated that no office order was issued for such change in reporting structure and it was verbally communicated by the Noticee and Mr. Harish Saran who was the functional head of HR Department during the recruitment process of CMD. It has been



observed that Mr. Harish Saran was removed from the process bypassing the organizational hierarchy.

- n. SEBI vide email dated July 10, 2023, advised the Company to explain how did the HR Department ensure a transparent process when one of the applicant is WTD of the Company, to which Company responded that SVP HR who was reporting to ED(HR) handled the entire process under guidance of NRC. It has been observed that, only one person from HR i.e. Ms. Koel Mallick Singhal was running the entire process bypassing the organizational hierarchy, without any written approval from NRC rather on oral instructions of Noticee who was not only privy to the information available with SVP (HR) but was actually taking decisions in unfair and biased manner.
- o. Personal interaction with shortlisted candidates for the post of CMD was held on March 18, 2023, immediately thereafter, the 34th meeting of NRC was held at 01:30 PM when NRC recommended the name of Mr. Rajib Kumar Mishra for the post of CMD and immediately after that, in the Board meeting held at 02:30 p.m. on the same day, the matter was placed as an additional item for approval to the Board. Accordingly, it is observed that the matter for appointment of CMD was put up to the Board without prior information in a haste to help the Noticee's appointment as CMD of the Company.
- p. Ms. Koel Mallick Singhal, SVP(HR) also submitted chronology of events for the appointment of CMD and Director (C&O) of the Company vide her emails dated July 10, 2024 and July 12, 2024, respectively. It has been observed, during examination by SEBI, that: -
 - (i) The post of CMD had fallen vacant in November 2021 and since then Noticee was holding this position as additional charge.
 - (ii) While in the calendar year 2022 only three meetings of NRC were held i.e. adjourned 29th NRC meeting on February 18, 2022 (in which the CMD appointment matter was deferred), 30th NRC meeting on July 25, 2022 i.e. after gap of almost 5 months (in which changes were proposed in the draft advertisement), 31st NRC meeting October 08, 2022 i.e. after a gap of almost 2 months (in which draft advertisement was recommended by NRC to the board of the Company).
 - (iii) However, the 165th Board Meeting was held on November 02, 2022, after gap of almost 24 days wherein the crucial agenda CMD appointment was tabled as an additional item when



board members were taken by surprise and even when it was objected by one of the Mr. Jayant Gokhale, an independent director of the Company.

- (iv) The superannuation age for CMD was differentiated for internal and external candidates so that the external candidates are discouraged to apply and the benefit would be only for the Noticee being acting CMD the only WTD in the Company at the relevant time. Being actively participating in aforesaid meetings of NRC and influencing decision making therein and also being CMD and chairing the 165th meeting of the board of the Company held on November 02, 2022 and deciding in disagreement with dissenting independent directors, Noticee decided the matter in his own interest.
- (v) In terms of regulation 19(4) read with schedule II part D of the LODR Regulations, NRC is tasked with the role of identifying and recommending to the board suitable candidates for the post of directors and senior management. However, in the instant matter the compilation and scrutiny of all the applications was done by Ms. Koel, a person belonging to HR (management) on verbal instruction of Noticee, a potential candidate himself.
- (vi) After shortlisting of candidates in 32nd NRC held on March 01, 2023, the process for appointment of Noticee as CMD of the Company was completed in a haste, unfair and biased manner on same day i.e. March 18, 2023. While, the process for appointment for both the posts commenced simultaneously and shortlisting of candidates for personal interaction was also done for both the positions in the 33rd NRC held on March 01, 2023, however, in the 34th NRC meeting held on March 18, 2023, only the agenda item for recommendation for the position was CMD was taken up and Noticee was recommended to the Board.
- (vii) Although the process was initiated by issuing advertisement in a dubious manner, as aforesaid, was for two posts, the process was completed only for appointment of Noticee as CMD of the Company in the month of March itself and the Director (C&O) appointment was done after a gap of almost six months. This shows the haste in which appointment of Noticee took place without having representation of sufficient number of independent directors on the board of the Company.
- (viii) While, for personal interaction for the post of Director (C&O), selection committee consisted of two external experts in addition to NRC members and Joint Secretary (Ministry of Power), no such external experts were called for personal interaction with candidates for the position of CMD.



- (ix) While, in case of appointment of Noticee as CMD, the personal interaction with candidates, NRC meeting for recommendation as CMD and Board meeting for approval for appointment of CMD was held on same day i.e. March 18, 2023, in the case of appointment of Director (C&O), after shortlisting of candidates by NRC on March 01, 2023, it took almost 5 months to conduct personal interaction on August 28, 2023 after which it took 13 days to conduct NRC meeting on September 11, 2023 to recommend the candidate and next 15 days to place the recommendation to the board meeting held on September 27, 2023.
- (x) When asked by SEBI, the Company in its response sent vide email dated January 24, 2024. failed to provide any reasons for going ahead only with the process of appointment of CMD and in spite of the post of the Director (C&O) being vacant since April 07, 2021, for which recruitment process was initiated simultaneously.
- (xi) Since December 06, 2022 to March 18, 2023 i.e. process of appointment of CMD, the composition of the board of the Company was not in accordance with Regulation 17(1) of the LODR Regulations. For the quarter ended December 31, 2022, March 31, 2023 and June 2023, BSE and NSE have levied fine on the Company under SOP Circular for non-compliance under regulation 17 of the LODR as half of board did not comprise of Independent directors and non- appointment of one independent woman director on the board of the Company.
- (xii) As on March 18, 2023 i.e. date of appointment of Mr. Rajib Kumar Mishra as CMD, the total number of directors on the Board were nine. In terms of Regulation 17(1)(a) and (b) of the LODR Regulations, when the Chairman of the Board was an executive, at least half of the board was required to be comprised of independent directors including at least one women independent director. However, at the relevant time, there were only three independent directors on the board of the Company as against the requirement of five independent directors including one-woman independent director.
- (xiii) Mr. D.S. Saksena, the independent director in the board of the Company in its 165th meeting held on November 02, 2022 suggested for strengthening of NRC and inclusion of a woman director, however, the matter was deferred by Mr. Rajib Kumar Mishra, stating that the issue may be taken in another meeting.



(xiv) Not having required number of independent directors on the board of the Company while deciding on a crucial matter of appointment of CMD, was not in the best interest of the Company and could have been avoided by the Noticee, acting in the capacity of CMD of the Company.

59. From the various observations in the examination report mentioned above, I note that the following issues arise for consideration in order to ascertain whether the Noticee influenced the process of appointment of the post of CMD in his favour:

- a. Whether Noticee attended the meetings of the NRC uninvited and failed to recuse from discussion with respect to filing up the post of CMD and was accordingly privy to the deliberations at NRC and influenced them in his favour?
- b. Whether Noticee removed Mr. D.S. Saxena as Chairman of NRC in the 168th meeting of the Board of the Company?
- c. Whether the Noticee attended the 165th meeting of the board of the Company held on November 02, 2022, and did not recuse and instead participated in discussion on agenda for filling up the post of CMD and the approval of draft of the advertisement?
- d. Whether Noticee caused the removal of Mr. Harish Saran, (ED-HR) from the recruitment process for the post of CMD by bypassing the organizational hierarchy and whether Ms. Koel Mallick, SVP(HR) was running the entire process bypassing the organizational hierarchy?
- e. Whether the appointment of CMD was put up to the Board in a hasty manner to help Noticee appointment as CMD of the Company?

60. In order to deal with above issues, it is germane to glance through the sequence of events as given in the following table:-

Table No. - 4

S. No.	Date	Event
1.	July 25, 2022	Changes in the Job Description and Qualification Requirements for the post of CMD and WTD(Commercial & Operations) were agreed upon by the NRC of the Company in its 30 th meeting.



2.	October 8, 2022	Job Description and Qualification Requirements for the post of CMD and WTD (Commercial & Operations) was finalized by the NRC at its 31 st meeting.
3.	November 2, 2022	Approval of Board - the recommendations of NRC with job description for the post was placed before the Board of the Company in its 165 th meeting.
4.	November 16, 2022	Advertisements for the post of CMD and WTD(Commercial & Operations) were published
5.	January 2, 2023	Last date for receipt of applications for the post of CMD
6.	March 1, 2023	Candidates were shortlisted at the 33 rd meeting of the NRC of the Company.
7.	March 18, 2023	Noticee interacted with NRC in its 34 th meeting and gave approval for appointment of Noticee as the CMD after receipt of the consent of the CMDs of the promoter companies.
8.	March 20, 2023	Letters were issued to CMDs of the Promoter Companies by PTC India Ltd. for their consent and after receipt of consent of CMDs of the Promoter Companies.
9.	March 27, 2023	Letter of Acceptance from all CMDs (NTPC, NHPC, PFC and Powergrid) were received by the Company
10.	March 29, 2023	Appointment letter issued by Company Secretary of PTC India Ltd.
11.	June 26, 2023	Approval of EGM / AGM for CMD of PTC India received.

61. On perusal of the minutes of the said 30th, 31st and 32nd meeting of the NRC, it is evident that the Noticee had attended the meetings of the NRC by invitation. Mr. D.S. Saksena, an Independent Director, was the Chairman of the NRC and it was incumbent upon Mr. D.S. Saksena to ensure appropriate conduct in the meeting of the NRC and to record his objections in case the Noticee attended the same uninvited or influenced the discussions. The minutes of the said NRC meetings have been signed by Mr. D. S. Saksena himself. I also note that although certain objections were made by Mr. D. S. Saksena with respect to certain criteria for the post of CMD in the 30th and 31st meeting of the NRC, all the decisions as mentioned above have been approved by him upon consideration of all discussions. The relevant extracts of the minutes of the meeting of the NRC in this respect are as under: -



30th meeting of the NRC held on July 25, 2022

“Agenda Item no. 7 – Deferred items of the last meeting – Filling up of vacancy of Chairman & Managing Director, PTC India Ltd.

Shri D.S. Saksena, Chairman asked whether a consultant should be appointed for the director recruitment process. Shri R.N. Misra and Shri V.K. Singh, Directors stated that the entire process may be run by PTC N&R Committee with full transparency.

The Committee agreed that recruitment should be broad-based and be open to every eligible candidate. The director hiring process had to be extremely transparent and notice about these vacancies should be published in national/ newspapers/ top magazines and our own website. Reasonable time should be given to applicant for applying.

Shri D.S. Saksena, Chairman stated that the superannuation age of the vacant positions may be kept same for both internal and external candidates, as 62 years and a recommendation to this effect be sent to the Board. Sri Saksena drew the attention of members to the extracts of the Minutes of the 133rd Board Meeting, in this regard.

Sri Saksena pointed out that the post of CMD had been vacant for the last eight months. Considering the fact that the recruitment process would take a minimum of three to four months, so an external candidate would have a tenure of less than two years.

The post of Director (C&O) had been vacant for sixteen months. Hence, an internal candidate joining as a Director could have a tenure of around six months, while an external candidate could have a tenure of hardly one year. Shri R.N. Misra, Director stated that a suitable candidate can make a difference in a short tenure also. In any case, the Board in 2018 itself has decided that the retirement age of PTC shall be 60 years except for the functional Director working at that time, therefore, the age of superannuation should be 60 years and only exception should be the existing WTD. He further stated that NRC should follow the existing policy with regard to superannuation age as approved by the Board, Shri V.K. Singh agreed with this view.

Drawing attention to Extracts from PTC Annual Report 2020-21, Shri D.S. Saksena, Chairman pointed out that the remuneration had been wrongly stated in the proposed advertisement both



for the CMD's post and the Director's post. Sri Saksena pointed out incongruities in pay and experience requirements.

The following changes were agreed upon: -

1. Age requirement be mentioned as 'born before / after' to have more clarity with 60 years as superannuation age for all candidates except existing WTD of PTC for who superannuation age shall be 62 years.
2. The date of vacancy be mentioned as 1st Nov., 2021.
3. Applicants should possess minimum 20 years of experience.
4. Applicants from the Central Government/ All India Services holding the post at the level of JS / carrying equivalent scale of pay may apply.
5. Applicants from Armed forces of the Union holding a post of the level of 'Major General' may apply.
6. The details of remuneration should be mentioned as 'average CTC in Rs. ---plus PRP and other perks.'"

31st meeting of the NRC held on October 08, 2022

"Agenda Item no. 3 – Filling up of vacancy of Chairman & Managing Director, PTC India Limited

The Committee desired that notice about the vacancies should be published in three national newspapers viz. The Economic Times, Business Standard and The Times of India.

The Chairman observed change in draft job description with respect to requirement that were recommended in the last NRC meeting. He pointed out that in the minutes of the last meeting, 'minimum 20 years' experience was prescribed for the applicants which has now been proposed to be raised to '25 years' in the Job Description attached with current agenda notes. Shri V.L. Singh and Shri R.N. Misra, Directors stated that minimum 25 years' experience is required for the post of CMD, PTC and Committee may accept this change as the minimum requirement of experience for the post of Director (Commercial & Operations) is also 20 years and the two positions should not have the same minimum years of experience. ED(HR) stated that all the suggestions of the NR Committee made in the last meeting had been incorporated in the current draft.

After discussions, the Chairman agreed to the proposed changes. The Draft advertisement including Job Description for the post of CMD as enclosed with the agenda note was agreed to



by the Committee. The Committee recommended that the draft advertisement, as enclosed with the agenda notes, to the Board.”

62. Thus, it is evident that decisions of NRC as above were taken with concurrence of its all members and Chairman. Further, the various suggestions of the Noticee in the aforesaid meeting of the NRC were on the basis of various earlier precedents and the policy followed by other CPSU Companies or Public Sector Banks for the recruitment of their WTD/ Chairman. It has been demonstrated by the Noticee and also admitted by the Company during inquiry that the suggestion of different age of superannuation for internal and external candidates mentioned above flows from the 133rd Board Meeting of the Company held on July 18, 2018, wherein ‘*it was decided that the age of superannuation for all fresh appointees to the Board level shall be 60 years, however, the existing WTD’s in case of re-appointment or appointment to the Higher Board level will be 62 years.*’ For the change of the experience requirement for the post of CMD from 20 years to 25 years, Mr. Rajiv Maheshwari, Compliance Officer and Company Secretary of the Company has stated that the recommendation for increasing the years of experience was made by Mr. Harish Saran, ED(HR) which was agreed to by the Noticee, and subsequently approved by NRC on October 8, 2022 on the same day unanimously. The Noticee was a mere invitee to the meetings of the NRC and his suggestion as invitee in the video were with respect to the recruitment process of the Director (Commercial & Operations) and not for the post of CMD. Thus, the basis of allegation against the Noticee in this regard does not sustain.
63. Examination report also alleges that the Noticee failed to recuse from the meetings of NRC and Board of the Company despite being an applicant himself. While the examination report has not captured the date when the application for the post of CMD of the Noticee was received, it is mentioned that the last date of application was January 02, 2023. On perusal of the minutes of the NRC meeting after the said last date, I note that the selection of the post of CMD was not an agenda for discussion in the 32nd meeting of the NRC held on January 10, 2023. In the 33rd meeting of the NRC held on March 01, 2023, for the agenda item pertaining to filling up position of CMD and Director (Commercial & Operations), the Noticee recused himself. The Noticee did not attend the subsequent meeting of the NRC held on March 18, 2023.
64. Thus, it is established that the Noticee made appropriate recusal from the meetings of the NRC and Board meeting/s post his application as a candidate for the post of CMD.
65. Although it has been alleged in the SCN, on the basis of complaint of Mr. D.S. Saksena, that Noticee had the support of Mr. V.K. Singh and Mr. R.N. Misra, no examination into their conduct has been



done and the alleged wrongdoing on their part, on behalf of the Noticee, has not been brought out. I note that in the Board of the Company or the committees of the Board, the support of certain Directors among themselves, does not lead to a presumption of wrongdoing on their part, unless the adverse role of such Directors is brought out.

66. Section 118(1) of the Companies Act, 2013, provides that *‘Every company shall cause minutes of the proceedings of every general meeting of any class of shareholders or creditors, and every resolution passed by postal ballot and every meeting of its Board of Directors or of every committee of the Board, to be prepared and signed in such manner as may be prescribed and kept within thirty days of the conclusion of every such meeting concerned, or passing of resolution by postal ballot in books kept for that purpose with their pages consecutively numbered.’*, whereas subsection (8) of the said section provides that *‘Where the minutes have been kept in accordance with sub-section (1) then, until the contrary is proved, the meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place, and the resolutions passed by postal ballot to have been duly passed and in particular, all appointments of directors, key managerial personnel, auditors or company secretary in practice, shall be deemed to be valid.’*
67. In light of all the aforesaid, I find that the Noticee attended the meetings of the NRC as an invitee and recused from discussion with respect to filing up the post of CMD and did not influence the selection process in his favour in the NRC.
68. Another aspect of charge against the Noticee is that he ignored the concerns raised and the suggestion made by Chairman of NRC and subsequently removed him in the 168th meeting of the Board of the Company. It is noted that following the resignation of 4 IDs on December 05/06, 2022, Mr. D.S. Saxena took over the chairmanship of audit committee, NRC and CSR committee which are mandated under the Companies Act and LODR Regulations. Each of these statutory committees serve distinct purpose which requires independent judgement and diverse perspectives and overlapping chairmanship of all these three committees to one person compromised the checks and balances essential for transparent functioning and increased the risk of perceived or actual conflict of interest and concentration of power. Accordingly, the Board of Directors of the Company, on January 19, 2023, unanimously reconstituted the composition of its committees after the induction of a new Independent Director to the Board of Directors of the Company. On perusal of the minutes of the 168th meeting of the Board of the Company, I note that with respect to the item pertaining to *‘Status of Compliance of SEBI-LODR’* in S.No. 3 it has been mentioned that the Company is non-compliant on composition of the Committees as *“i) Presently, RMC Committee consists with Shri R.N. Misra and Smt. Parminder Chopra. The Committee should consist with 3 members, ii)*



Presently, SRC Committee consist with Shri Himanshu Shekhar only as member. The Committee should consist with 3 members.”. It has been further mentioned that the “Board noted the current non-compliance on composition of the Committees and decided that since one new Independent Director has joined, the existing Committees be reconstituted as follows:

<i>Sr. no.</i>	<i>Name of Committee</i>	<i>Constitution</i>
1	<i>Audit Committee</i>	<i>Shri D.S. Saksena, Chairman Shri R.N. Misra, Member Smt. Parminder Chopra, Member</i>
2	<i>Corporate Social Responsibility</i>	<i>Shri D.S. Saksena, Chairman Shri R.N. Misra, Member Shri V.K. Singh, Member Smt. Sangeeta Kaushik, Member</i>
3	<i>Risk Management Committee</i>	<i>Shri R.N. Misra, Chairman Shri Prakash Mhaske, Member Smt. Parminder Chopra, Member</i>
4	<i>Nomination and Remuneration Committee</i>	<i>Shri R.N. Misra, Chairman Shri Prakash Mhaske, Member Shri V.K. Singh, Member</i>
5	<i>Stakeholders Relationship Committee</i>	<i>Shri Prakash Mhaske, Chairman Shri D.S. Saksena, Chairman Shri Himanshu Shekhar, Member</i>
6	<i>Environmental, Social and Governance (ESG) Committee</i>	<i>Shri Prakash Mhaske, Chairman Shri D.S. Saksena, Member Shri R.N. Misra, Member</i>

69. In view of the aforesaid, I find that the changes in the composition of the committees of the Company has been approved unanimously in the minutes of the 168th Board meeting of the Company held on January 19, 2023 for the purposes of compliance with the provisions of the LODR Regulations. Such collective decisions, having a reasonable thought process, on the part of the Board of the Company cannot be attributed to have been done at the behest of the Noticee and for the purpose of providing benefit to the Noticee as alleged. The Examination does not bring out any material to show otherwise. Accordingly, I find no merit to the allegation that the Noticee removed Mr. D.S. Saksena as Chairman of NRC in the 168th meeting of the Board of the Company.



70. With respect to the allegations that the Noticee caused the removal of Mr. Harish Saran, ED-HR from the recruitment process for the post of CMD by bypassing the organizational hierarchy and that Ms. Koel Mallick, SVP(HR) was running the entire process bypassing the organizational hierarchy, I note the following from the submissions of the Company during the instant inquiry:
- a. On March 01, 2023 when the shortlisting of profiles for both the Board level positions were concluded, neither the then CMD (I/C) nor the ED(HR) were permitted *by the NRC* in the meeting as they were applicants for the CMD and the Director (C&O) positions respectively. The Chairman of NRC verbally instructed SVP (HR& SS) to convene the interview/ interaction scheduled on March 18, 2023 and to directly correspond with the NRC Chairman for the same.
 - b. Ms. Koel Mallick was neither involved in shortlisting of profiles for the CMD post, not decided on the date for the interview, not was part of the selection process and not did she presented the agenda to NRC and Board meeting held on March 18, 2023. She only coordinated the selection process basis the verbal instruction of the Chairman NRC.
71. In light of the aforesaid submissions of the Company, I find that recusal of Mr. Harish Saran, ED-HR was due to he being an applicant for the post of Director (C&O) as per the instructions of the NRC and not at the behest of the Noticee as alleged. In fact the Noticee had not taken part in the process of selection by the NRC. I also find that Ms. Koel Mallick, SVP(HR) was not running the process of selection bypassing the organizational hierarchy as alleged but working as per the instructions of the then Chairman of the NRC. Thus, I find no merit to the allegation that the Noticee caused the removal of Mr. Harish Saran from the recruitment process for the post of CMD or that MS. Koel Mallick was running the entire process bypassing the organizational hierarchy.
72. The SCN has also alleged that the appointment of CMD was put up to the Board in a hasty manner to help Noticee's appointment as CMD of the Company. It has been demonstrated by the Company and the Noticee based on internal records of the Company that, on March 18, 2024, NRC selected the Noticee as CMD. On this date, NRC did not select ED (C&O) nor did it give nay date for interview of said post of ED (C&O). As per practice normally followed by the Company, its Board approved the selection on the same date. The Board Meeting was coordinated by the Company Secretary. As mentioned hereinabove in Table No. 3 for two such earlier recruitments (Shri Deepak Amitabh in the year 2012 and Shri S.N. Goel in the year 2012) the interview and recommendations of NRC and approval of Board was given on the same day. In view of the same, I find that the appointment of the Noticee was made in a manner similar to earlier appointments made by the Board of the Company and find no merit to the allegation that the same was done in a hasty manner.



Fidelity International letter dated January 27, 2023

73. I note that Fidelity International (Fidelity), a shareholder (holding 9.5% shares) of the Company sent to its Board of Directors a letter dated January 27, 2023, *inter alia*, raising concerns that : “*A vote against the election of Rajib Kumar Mishra (Item 3) is warranted, considering the failures of governance, stewardship, risk oversight, or fiduciary responsibilities as the Executive Chairman of the Company and as the representative on the Board of PTC India Financial Services Limited. Shareholders may question his ability to effectively oversee management and serve the best interest of stakeholders.*”

74. Admittedly, the aforesaid letter was placed before the Board of the Company, however the concerns therein were not discussed and the Noticee insisted that he will meet Fidelity International and place the letter before the Stakeholders Relationship Committee (SRC). The examination report further observes that it was only on March 28, 2023, at the 9th Meeting of the SRC that the same was taken up, i.e. post approval of NRC and appointment of the Noticee as CMD, and the committee only observed the concerns raised and there is no record of deliberations held with respect to addressing the issues raised in the SCN. It has been alleged that it was incumbent upon the Noticee to place this matter for deliberation and consideration of the Board of Directors rather than taking unilateral decision himself when his candidature as CMD was in question. The Noticee in his submissions has denied the aforesaid allegations and has submitted that due process was followed by the Board and stakeholders committee for addressing the grievance of Fidelity as the Board noted it and referred it to Stakeholder Committee Stakeholder committee of the Board deliberated and recorded it in its meeting held on March 29, 2023.

75. From the minutes of the 169th meeting of the Board of Directors held on February 13, 2023, I note that the letter dated January 27, 2023, was addresses to all Directors of the Company. The relevant extracts of the said board meeting are reproduced as follows:

“1571. Item no. 169.3.4 (Additional Agenda Item) Discussion of letter dated 27 January, 2023 addresses to all Directors of PTC from M/s. FIL Investment Management (Singapore) Ltd. (Fidelity International)

Shri D. S. Saksena, Director had proposed tabling of an additional agenda item, the letter of Fidelity International in the 169th meeting of the Board of Directors.



CMD (Addl. Charge) informed that he is scheduled to meet Fund Manager of Fidelity International shortly. Further, CMD (Addl. Charge) proposed to place the letter of Fidelity before the 'Stakeholder's Relationship Committee (SRC) of Board. The Board approved the proposed actions."

76. In view of the aforesaid minutes, I find that the letter dated January 27, 2023, was addressed to all the Directors of the Company and the concerns therein could've been taken up by any of the Directors therein. Further, the said letter was tabled as an additional agenda item, thus I find the Board to be aware of the existence of the said letter from Fidelity. I note that Instead of deliberating on the concerns stated in the letter, the Board of the Company approved the proposed action of the Noticee to place the letter before the SRC. I note that Section 178(6) of the Companies Act, 2013 provides that the SRC shall consider and resolve the grievances of security holders of the company. Thus, I find that placing the stated grievance of Fidelity before the SRC is as per the scheme envisaged under the Companies Act, 2013.

77. In light of all the above, I find no merit to the allegations, that the Noticee took unilateral decision to place the letter of Fidelity before SRC and that the same was a deliberate design by him to divert the Board of the Company and Committee processes and failed to facilitate constructive deliberation on the concerns raised by the Fidelity International.

78. In light of all the above, the allegations against the Noticee are not established.

Engagement of Lawyer and Legal Expenses

79. The examination report observes from the the audited (Consolidated and Standalone) financial results of the Company for the quarter and year ended March 31, 2024 and the submissions of the Company that:

- a. One Mr. S.C Mohanty was engaged by the Company, on retainership basis for a period of six months from June 22, 2016 to December 21, 2022 which was subsequently extended upto December 21, 2023. The scope for work included handling and advising in all matters related to SEBI, RBI, MCA and connected matters.
- b. On perusal of the copies of invoices for payments made to Mr. S.C Mohanty, it was observed that while they contain the date wise details of the meetings held with CMD-PTC and



MCA/RBI/SEBI officials, there is no evidence to show that the details of services received were in connection with legal proceedings related to the Company.

- c. In one such invoice dated June 12, 2023 raised for the month of May 2023, Mr. S.C Mohanty had charged Rs. 50,000/- for drafting reply to show cause notice in the matter related to SEBI. While there was no record in SEBI database for issuance of SCN in the matter of PTC India at that time, it was observed that an SCN dated May 08, 2023 was issued to the Noticee, who was also the Non-Executive Chairman of PFS, which is stated as received in individual capacity.
- d. The Statutory Auditors of the Company, TR Chadha & Co., in the meeting of Audit Committee of the Company held on June 06, 2024, submitted a presentation on the financial results of the Company wherein it was mentioned that CMD-PTC and Mr. S.C Mohanty had confirmed that services rendered were for the matters related to the Company and not for personal matters. However, when Statutory Auditors have asked for the minutes of the meeting, legal opinion sought, written clarification/advises sought, notes prepared for the legal department for oral advices by Mr. S.C Mohanty etc. they were only provided with date wise details of the meetings held by Mr. S.C Mohanty including the names of the persons he met. Hence, it is observed that Statutory Auditors had raised concerns over internal controls system in the Company and *inter alia* suggested to document the details of services received.
- e. The Company vide email dated June 14, 2024, *inter alia*, stated that:
- “1.Mr. Subhash Mohanty’s engagement approval mentions that “the proposed engagement is for handling cases related to SEBI, RBI, MCA and connected matters”.*
- 2.No cases / legal proceedings related to SEBI/ MCA / RBI forms part of the matters with PTC’s legal department.*
- 3.The details of legal proceedings / date wise details during meetings etc. mentioned in Sh. Mohanty’s bills, therefore, are not available with us.”*
- f. While on the one side Mr. Rajib Kumar Mishra has submitted that the legal expenses were incurred in connection with matters related with the Company and not personal matters, on the other side Company has submitted that “No cases / legal proceedings related to SEBI/ MCA / RBI forms part of the matters with PTC’s legal department” and also not able to provide documents and justification to the Statutory Auditors for the expenses so incurred.
- g. The Company submitted an internal approval note dated June 22, 2022 for appointment of Mr. S.C Mohanty, Advocate on retainership basis for the matters related to SEBI, RBI and MCA



and it was also submitted that the approving authority for the same was the Noticee. there is no rationale or specific case/matter details provided in the note for the appointment except that he is to be engaged for handling of cases related to SEBI, RBI, MCA and connected matters and proposed fee structure. The signatory of the letter of award to Mr. S.C Mohanty was ED (Legal) and approving authority was the Noticee.

- h. Mr. S.C Mohanty was not selected from any panel of the lawyers of the Company. Mr. S.C Mohanty, had submitted his expression of interest and copy of CV vide email dated June 20, 2022 to the Noticee who in turn forwarded the mail to ED (Legal) of the Company. Then approval was taken by way of an internal note put up by Vice President (Legal), recommended for approval by ED (Legal) and EVP-Finance and final approval was given by the Noticee in his capacity as CMD of the Company. Accordingly, it was observed that the Noticee was both the source of reference for retainership of Mr. Subash Chandra Mohanty as well as approving authority for this engagement.
- i. The engagement of Mr. S.C Mohanty on retainership was proposed w.e.f. July 01, 2022 on the above said internal Note. However, Noticee had approved the said proposal on June 23, 2022 by stating that “*the retainership may be given w.e.f. 22nd June 2022 as the lawyer has started working from that day.*” Thus, the engagement of Mr. Subash Chandra Mohanty was approved by the Noticee retrospectively.
- j. The bills were verified by the Legal department and processed by the Finance department of the Company but no information/documentary evidences related to services rendered by Mr. S.C Mohanty was provided along with invoices and his invoices were cleared on declaration basis.
- k. None of the officials of the concerned departments of the Company have dealt with Mr. S.C Mohanty or exchanged any correspondence with him except invoices and information regarding travelling from one city to another for the meetings. It is observed that such emails were one liner information by Mr. S.C Mohanty on incurring expenses for travelling from one city to another mainly, Delhi, Mumbai, Bhubneshwar etc. without specifying the details of the officials and purpose of the meeting. Further, no meetings were held by any of its concerned department with Mr. S.C Mohanty for services rendered by him.
- l. There was no information on legal proceedings or matters with regard to which such meetings were held and services were provided by Mr. S.C Mohanty. Date wise details of meetings



attached with the invoice only shows that he met Regulators RBI/SEBI/MCA (no names of the officials or purpose is mentioned) and among the Company Officials he met the Noticee.

- m. As the proposed fee structure and invoices for monthly payments inter-alia included payment towards “*Physical appearance/meeting with MCA/SEBI/RBI officials*”, Company was inter alia advised to submit copies Authority letter/Vakalatnama etc, if any issued in this regard. Company has submitted that no such Authority letter was issued to Mr. S.C Mohanty by any of its concerned department. Company was further advised to submit copies of all documents submitted to Statutory Auditors in connection with their queries with regard to legal expenses of Rs. 55.17 Lakhs. In response the Company has submitted that Statutory Auditors had access to Accounting record. In connection with legal expenses they directly interacted with the Noticee.
- n. From the Audit Committee meeting of the Company held on June 06, 2023, it was observed that the Auditors have mentioned in their presentation that it was explained to them that the main regulatory issues/concerns for which Mr. S.C Mohanty was consulted by the Noticee include following matters.

“We have been explained by CMD that Mr. Mohanty was engaged as a Retainer Legal Consultant by the Company to advise on various regulatory and legal issues in June 2022. Further, as explained, the main regulatory issues/ concerns for which Advocate Mohanty was consulted by CMD are:

- 1. Non publishing/ finalization of Accounts for several quarters and Annual result FY 21-22- impact thereof.*
- 2. Assessing and assisting to handle issues related to other regulatory compliance.*
- 3. Legal remedy on Freezing of DEMAT accounts of PTC India and Promoter companies.*
- 4. Provisions in the SEBI LODR for publishing standalone results and queries thereof.*
- 5. Legal interperations of clauses and providing oral opinion prior to responding the regulatory queires.*
- 6. Assistance in follow up on RMC report submitted to SEBI and RBI.*
- 7. Assess and prepare reply to regulators who also were regularly enquiring about the corporate Governance issues and subsequent development.*
- 8. Assistance to reply major investors in PTC India for queries on sustainability and Governance.*
- 9. Assistance in reply for Queries from Promoters/ MOP.*



10. Interpretation of Directives and implementation thereof from Regulators including SEBI/RBI/MCA.

11. Assessment of Directive of RBI issued to subsidiary and its implication on the Holding company.

12. Assistance in improving corporate Governance in PTC India.

.....”

o. In connection with these 12 matters, the Company has confirmed that such matters were dealt by concerned departments without the assistance of Mr. S.C Mohanty and also no communication were exchanged with Mr. S.C Mohanty by any of its concerned departments.

80. In view of the said observations, the SCN alleges that Rs. 55.17 Lakhs were paid to Mr. S.C Mohanty by the Noticee out of the funds of the Company in a non-transparent manner for no work related to or in connection with the work or functions of the Company and that the Noticee failed to adhere to sound corporate governance practices and also failed to maintain high standards in his conduct.

81. The Noticee in his submissions has vehemently denied the allegations in the SCN and has contended that the appointment of Mr. S. C. Mohanty, Advocate was done in accordance with the prevailing DoP of the Company and was duly discussed in the 189th meeting of the Board of the Company held on December 24, 2024. He has further stated that appointment was not made for his personal proceedings in connection with PTC Financial Services Ltd. and the legal counsel for the Noticee was Dr. Manas Day.

82. The minutes of the 189th meeting of the Board of the Company were initially not on record and were sought from the Company on consideration of the request of the Noticee stating the same to be relevant to the issue herein. On perusal of the said minutes, I note that the Board of the Company has decided that the appointment of Mr. S. C. Mohanty, Advocate was as per the prevailing DoP in the Company. The relevant extract of the said minutes are as follows:

“1754. Item No. 189.3.1 Report of M/s. GSA & Associates

Following officers of PTC joined the meeting for this item:-

Shri Harsih Saran, ED

Shri Rajiv Malhotra, ED & CRO

Shri Pankaj Goel, ED & CFO

Shri Mukesh Ahuja, VP (Fin.)

Shri Amit Pareek, VP (Fin.)



It was informed that the Board in its meeting dated 10th December 2024 noted that the report of M/s. GSA & Associates was provided to Dr. Rajib Kumar Mishra, and he was requested to provide his response on the points raised in the report. No response was received from Dr. Mishra within the stipulated period and the Board had desired that a final reminder be sent to Dr. Mishra by giving 10 days' time. The Board further suggested that the Legal and Fin. department may prepare further details on the following:

- (i) How many lawyers have been engaged on retainership basis from FY 20-21 to FY 23-24 and the terms and conditions of their appointment.*
- (ii) The process followed for their appointment as retainers and or payment details of their retainership bills.*
- (iii) The number of payments made and due to Sh. S.C. Mohants with further bifurcation into retainership head, out of pocket expenses, appearances etc. as per the bills submitted by Sh. S.C. Mohanty.*

Shri Mukesh Ahuja, VP (Fin.) presented above details during the meeting.

It was informed that the final reminder was sent to Dr. Mishra on 11th December 2024, giving 10 days' time. Meanwhile Dr. Mishra sent his response on 14th December 2024 with a copy to the Board members. A copy of the response was enclosed with the agenda notes.

The Board deliberated on the report of M/s. GSA and its annexures, mail of Shri R.N. Misra sent earlier by him on this subject, response of Dr. Rajib Kumar Mishra, Ex. CMD on this report and considered all aspects of this matter. Following observations were made-

- 1. Dr. Mishra, in his capacity as CMD, had approved engagement of Mr. Mohanty on retainership basis, which was within his competence as per extant DoP of the company.*
- 2. There is no precedence or procedure to engage an Advocate through tendering process.*
- 3. The services of Sh Mohanty were being directly availed by Dr. Mishra. As per the submissions of Dr. Mishra before expert agency, the services of Mr. Mohanty were utilized by him in dealing with various matters pertaining to Regulatory authorities.*
- 4. Payments of bills of Mr. Mohanty, have been made on the basis of contractual provisions. However, some bills of Mr. Mohanty are still unpaid. Upon receiving a request from Mr. Mohanty regarding balance payment, the management has requested him to submit more details. The same have not been provided by Mr. Mohanty as yet.*
- 5. Contract for engagement of Mr. Mohanty has one fixed component for payment of retainership, and certain other components for other services/ deliverables.*



6. *Payment of retainership portion of the bills is a contractual responsibility, which is not linked to any specific deliverable. Payment for other services would require more details and confirmations.*
7. *Vakalatnama in favour of any Advocate is required only when he is required to represent company in any judicial or quasi-judicial proceedings. For rendering consultations, there is no need to have Vakalatnama.*

Considering above, it was discussed/ decided that the appointment of Shri S.C. Mohanty, Advocate was as per the prevailing DoP in the Company. The payments released were as per terms of the contract. However, Shri S.C. Mohanty had been asked earlier to submit the details of persons/ officials he had met for which he has not provided details till date. The Company may review his claims in light of the details which are to be provided by him and contract provisions. However, no recovery may be made from Dr. Rajib Kumar Mishra in this regard.”

83. In light of the above minutes, I find that the Board of the Company has agreed that the appointment of Mr. S.C. Mohanty was as per the prevailing DoP of the Company and the payments released therein were as per terms of the contract and find no merit to the allegation that the Noticee failed to adhere to sound corporate governance practices and also failed to maintain high standards in his conduct.

Conduct after SEBI order dated June 12, 2024

84. The examination report observes that SEBI vide Order WTM/ASB/CFD/CFD-SEC-2/30416/2024-25 dated June 12, 2024 (*Since set aside by Securities Appellate Tribunal vide order dated December 11, 2024 in Appeal No. 371 of 2024*), *inter alia*, restrained the Noticee, from holding any position as a director or key managerial personnel in any listed company or any intermediary registered with SEBI, or associating himself with any listed public company or a public company which intends to raise money from the public or any intermediary registered with SEBI, in any capacity, for a period of six (6) months from the date of the said Order and also imposed penalty of Rs.10 Lakhs on the Noticee.
85. Mr. Rajiv Maheshwari acting as ED (IT) of the Company vide email dated July 10, 2024 forwarded an email received by him from Mr. Rajiv Malhotra, Executive Director (Legal) of the Company, wherein it has been *inter alia* mentioned that Mr. Rajiv Malhotra had received an email from Mr. Vikas Mathur, AVP-IT, wherein he reported an incident which occurred on June 13, 2024, mentioning the following:



“It is evident from the attached that on 13th June morning, Dr. Mishra had asked for his desktop system to be handed over to the driver attached to him; the reason given was that he was unwell and would work from home on the day. The mail access to Dr. Mishra’s ptcindia mailbox was blocked later that day when the IT Administrator appears to have first understood that Dr. Mishra had ceased to be CMD, after the SEBI order.”

86. A letter dated July 05, 2024, from Mr. Vikas Mathur, was also attached with the email dated July 10, 2024. Upon perusal of the said letter, it has been observed that:
- a. On the very next date when SEBI passed the above order on June 12, 2012, the office security guard came to the room of Mr. Rajiv Malhotra with Noticee’s driver and asked to handover his computer;
 - b. Mr. Vikas Mathur was told by Mr. Rajib Kumar Mishra over call that he would be working from home as he was not well and he should send desktop computer machine with his driver. Accordingly, he handed over the desktop machine to the driver of Noticee.
 - c. After the above incident, at 11:00 AM ,Mr. Vikas Mathur came to know that Noticee had ceased to be the CMD of the Company after SEBI’s Order and then conveyed this incident to Mr. Arun Kumar (head of IT).
 - d. Following instructions of Mr. Arun Kumar, Noticee’s access to emails from all devices was stopped. However, Noticee had offline (local machine) access to his old emails (prior to June 13, 2024, 3 PM) and data stored on his desktop computer and it was not possible to ascertain the data of the said machine.
 - e. Besides his desktop computer, he had other devices (e.g. Ipad, laptops, mobile phone) where he could have had access to his emails.
 - f. Noticee had not been asked to return his desktop computer nor has he been in touch to return the same.
87. In view of the aforesaid, the SCN alleges that the Noticee despite being restrained by SEBI Order dated June 12, 2024, reportedly misguided Mr. Vikas Mathur by stating that he would work from home and reportedly took away his official computer system from office through his driver on June 13, 2024 and, thus, failed to maintain high ethical standards.



88. The Noticee has denied the aforesaid allegations stating that he took possession of his computer system to perform his duties as director of PTC Energy Ltd., an unlisted subsidiary of PTC India Limited for which Noticee continued to be Managing Director even after SEBI Order dated June 12, 2024. He further contended that he was discharging his responsibilities with respect to PEL from the same office premises, utilizing shared infrastructure including computing systems, network access and administrative support. The Noticee has stated that the issue of Noticee taking possession of his computer system has been considered by the Board of the Company which in its 189th meeting held on December 24, 2024, has approved the settlement of his dues and the buyback of used office furniture (Computer System) is included in such settlement.

89. On perusal of the minutes of the aforesaid meeting, I note that the Board of the Company authorised the head of HR to make the required payments to Dr. Mishra as settlement of dues. The relevant extracts of the said minutes are as follows:

“1755. Item no. 189.3.2 Settlement of Dues of Dr. Rajib Kumar Mishra, Ex. CMD

SVP(HR) joined the meeting for this item and explained the proposal.

It was recalled that the Board in its meeting dated 13th December, 2024, inter alia, resolved that since Dr. Rajib Kumar Mishra had ceased to be Director & CMD of PTC w.e.f. 12th June 2024 and is not to be re-inducted as Director/ CMD, his full and final settlement shall be made by the company on recommendation of N&R Committee and approval of the Board after deduction of dues (if any) as per the applicable rules/ policies of the Company.

SVP(HR) informed that after the Board meeting dated 13th December 2024, the matter of settlement of dues was discussed in the NR Committee meeting dated 18th December 2024 and recommendations of the NR Committee have been submitted to the Board with the agenda notes. She explained the details of dues to Dr. Rajib Kumar Mishra, Ex-CMD. On a query, she explained that PRP payout as mentioned in amount payable to Dr. Mishra is for FY 2023-24 and the year FY 2022-23 had been wrongly mentioned.

The Board suggested that the head of HR should give a declaration that the amount of settlement of Dr. Rajib Kumar Mishra is as per the applicable rules/ policies of the Company. Further, HR may get the details of dues to Dr. Mishra confirmed by Dr. Mishra and then make the required payments to Dr. Mishra as settlement of dues.”

90. In light of the said settlement of dues of the Noticee by the Board of the Company the cause of action has become infructuous. Accordingly, I do not find that the Noticee failed to maintain high ethical standards as alleged.



91. Apparently, the examination has not looked into several internal processes and Board procedures and obligations of the Company, Company Secretary and other directors. It has also not seen the minutes of the Board meetings held from June 13, 2024 to November 12, 2024. In terms of regulation 22 of the LODR Regulations, the listed entity is obligated to formulate a vigil mechanism /whistle blower policy for directors and employees to report genuine concerns. The vigil mechanism should provide for adequate safeguards against victimization of director(s) or employee(s) or any other person who avail the mechanism and also provide for direct access to the chairperson of the audit committee in appropriate or exceptional cases. The examination has not gone into see if any such mechanism/ policy was in place in the Company and if yes, how such concerns, if at all existed at the behest of the Noticee, why it could not be reported to the audit committee chaired by Mr. D.S. Saxena at the relevant time. Conversely, being Chairman of NRC and also sitting in Board meeting as independent director he had himself allowed all decisions in NRC and consented to Board's decisions with not only tacit consent but also with active deliberation. The examination has not brought out as to how an individual CMD alone could cause concerns on corporate governance. No clear evidence or material has been brought out. In fact, the records of the Company as submitted during inquiry do not indicate so. Further, the grave concerns, if any, in the Company could be looked into with greater precision. This is also suggested by new development in the matter of PFS as reported in media that three IDs resigned recently for reason of being constrained in upholding the highest standards of corporate governance expected of them when the Noticee is not part of PFS.

92. From all of the above, I find that the Noticee is not liable for any of the violations alleged in the SCN.

93. While parting with this order, I deem it necessary to state that in the facts and circumstances of this case while all the allegations are not sustainable as found in the inquiry they all were levelled without an iota of doubt regarding impinging upon integrity of markets or investors' interests. In this regard, I am reminded of the following observations of Hon'ble Justice Krishna Iyer in *The State of Punjab and Anr Vs Shamlal Murari and Anr. AIR 1976 SC 1177*:

"We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice. Where the non-compliance, tho' procedural, will thwart fair hearing or prejudice doing of justice to parties, the rule is mandatory. But, grammar apart, if the breach can be corrected without injury to a just disposal of the case, we should not enthrone a regulatory



requirement into a dominant desideratum. After, all Courts are to do justice, not to wreck this end product on technicalities.” (Emphasis Added)

94. Further, with regard to such dual proceedings, one after the other, without much weight to the case, it is pertinent to mention following observations of Hon’ble SAT in the matter of **Rajesh Mokashi Vs. SEBI (Appeal No. 496 of 2023 order dated June 27,2025):-**

“SEBI embarked upon another misadventure to conduct one more proceeding through its WTM. The entire exercise has caused colossal loss of judicial time and resources and above all a miserable trauma of irreparable damage to appellant’s reputation besides financial loss and loss of further opportunity to him.”

95. Let me get down to the brass tacks and end by saying that such enforcement of corporate governance for individual disciplining without proving individual’s involvement based on cogent evidence, as in the instant case, may, instead of correcting the menace, lead to meaninglessness; thanks to ideological abuse and general over-use lest invoking these *"magic words"* could mean little more than *"Hooray for our side"* as Professor Jeremy Waldron pointed out in the context of rule of law.

Disposal of SCN.

96. In view of the above, the Show Cause Notice dated January 24, 2025 in the present matter is disposed of without any direction or monetary penalty as the case is not made out.

97. In terms of Rule 6 of the Adjudication Rules, copy of this order shall be sent to the Noticee and SEBI.

Date: September 30, 2025

Place: Mumbai

**SANTOSH SHUKLA
QUASI JUDICIAL AUTHORITY
SECURITIES AND EXCHANGE BOARD OF INDIA**