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AN EMPIRICAL REVIEW OF CORPORATE GOVERNANCE AND DISCLOSURE PRACTICES IN SELECTED COMPANIES WITHIN THE ENERGY SECTOR LISTED IN THE NIFTY ENERGY INDEX

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Abstract

Just a few days the practice of Corporate Governance transparency plays a key role in implementing new corporate ethics and legislation in the economic and business sectors. Corporate governance builds equity, openness, accountability to shareholders and therefore improves the firm's reputation. This study is focused on the review of the problem described in the Nifty Index (GAIL, ONGC and NTPC) relating to corporate governance in the Indian Corporate Energy field. For the study researcher's intent, prepare the index based on the mandatory and non-compulsory regulations issued by SEBI 2015 and Companies Act 2013. Through using the Index study, the Corporate Governance Disclosure practices can be contrasted between the companies analysed in the energy sector. Annual reports for the financial year 2018-2019 have been considered for the analysis purpose. Nearly all companies reveal their all corporate governance parameters but GAIL scored the highest score among other companies. SEBI establishes strict day-to-day Corporate Governance system to prevent frauds and scams.

Keywords - *Corporate Governance, Clause 49, SEBI, Companies Act 2013, NIFTY*

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Overview of the Corporate Governance

Corporate Governance focuses on the framework and procedures of a company to ensure equal, open, transparent and responsible corporate behaviour. There are also many concepts of corporate governance, but they all concern:

- Enterprise control systems;
- Relations between the board / shareholders / stakeholders of the Company;
- The company is managed in stakeholders' expectations; and
- More transparency and accountability to allow business information users to evaluate whether the company is being handled in such a manner that they find necessary.

Corporate governance gives companies opportunities for risk management and added value by having the best approach through laws and regulations. The importance on corporate governance is moving from mere duty and compliance with laws and listing criteria into a business imperative for many businesses. Corporate governance has a major impact on the company's success. This stands for a business management guided by responsible, long-term value development. Good corporate governance is a vital instrument for sustainable market growth and a long-term strategic advantage.

Meaning of Corporate Governance

Corporate governance refers to the way an organization is run. It is the mechanism that directs and manages enterprises. This includes running the company according to stakeholder wishes. This is actively carried out by the board of directors and the committee leaders concerned for the benefit of the corporation's stakeholder. It's all about balancing individual and societal interests as well as economic and social ones. Corporate governance is the interaction between various stakeholders (shareholders, board of directors, and company management) in influencing the business's performance and the way it precedes it. Partnership between the proprietors and the executives within an organization has to be optimistic and there should be no tension between the two. The owners have to see that the performance level of the person is as per the standard results.

SEBI Clause 49 and Companies Act 2013 Regulations on Corporate Governance

SEBI enshrined Clause 49 in the Equity Listing Agreement (2000), which now operates as a corporate governance framework in India, as a significant step towards amending the corporate governance guidelines. With clause 49 the provision was born that half of the directors on the board of a listed company have to be independent directors. Clause 49 of the Listing Agreement applies to companies wishing to be listed in the exchanges of stocks.

That clause has both compulsory and non-compulsory provisions. Main Statutory requirements-Composition of the Board and its operation-frequency of meetings, number of independent directors, rules of conduct for the Board of directors and the management, Audit Committee, Audit Committee Symmetry and role implementation for Subsidiary Companies, full transparency to Audit Committee, Board and shareholders, CEO / CFO certification, Quarterly Corporate Governance Report, Annual Certificate of Compliance. Main Non-compulsory requirements include: Remuneration Committee constitution, Board members training, Board members peer review, whistle-blower protection policy. Notwithstanding all the compulsory and non-obligatory conditions pursuant to Clause 49, India has not yet been able to establish itself with the highest corporate governance standards. A specific segment on Corporate Governance also appeared in the Companies Law 2013. Relevant acts under this law were found within at least 11 heads, viz. Membership of the Board, Woman Chairman, Independent Officers, Training and Assessment Executives, Audit Committee, Selection and Remuneration Committee, affiliated companies, Internal Audit, SFIO, steering committee and Enforcement to include a rock-solid corporate governance system.

NIFTY Index

National Stock Exchange (NSE)

Indian major trading floor, headquartered in Mumbai, Maharashtra, India, is the National Stock Exchange (NSE). This had started to break the Bombay stock exchange's dominance on the Indian economy.

1) NSE was formed in 1992 as the nation's first demutualized electronic exchange.
2) It was the country's first exchange to provide such an advanced, completely automated screen-based electronic trading platform that provided investors with the easy trading facility distributed across the country's length and width.
3) NSE has a total market capitalization of over USD 2.27 trillion, making it the 11th largest stock exchange in the world as of April 2018.
4) NSE's index, the NIFTY 50, is used extensively by investors in India and around the world as a barometer of the Indian capital markets.

NIFTY energy industry category comprises Petroleum, Gas, and Power companies. The Index includes 10 companies that are listed on India's National Stock Exchange (NSE). NIFTY Energy Index is determined using the free float market capitalization process, wherein the index level represents the overall free float market valuation of all the stocks in the index compared to the common base trading volume value. The Cool Energy Index can be used for a number of purposes including portfolios of performance analysis funds, the launch of index funds, ETFs and structured goods.

Review of Literature

Within this section, an effort has been made to examine numerous studies published by the Indian and International expertise.

- **Bala N. Balasubramanian (2009)-** researched corporate governance practices of companies in India leading to clause 49 of the listing agreement made mandatory for all the companies listed. He also analysed whether a cross-sectional relationship existed between governance indicators and firm performance indicators, and found proof of a productive correlation for an overall governance index and a shareholder rights index. The relationship is greater, with more growth prospects for more successful companies and businesses.

- **Bernard S. Black (2012) -** looked at Brazilian public corporations' corporate governance practices to recognize fields where their compliance is fairly strong and poor. Many companies have small boards, composed entirely or almost entirely of insiders or members of the family or organization that manages it. Even some very big companies do not have independent directors.

- **Shilpa S. Motwani and Hemal B. Pandya (2013)** - this paper aim to study corporate governance practices for selected major industries in the Indian perspective over a five year period. A Corporate Governance Assessment Model has been used to evaluate the Corporate Governance Practices by different companies from different sectors. The average sector scores were determined for determining the overall sector - based changes. The corporate governance index was measured and analysed to promote comparison.

- **Pankaj Madhani (2014) -** this study aims to investigate the effect on corporate governance and disclosure practices of companies of the existence of the business or industry by defining and evaluating the empirical proof for such relationships for companies listed on the Bombay Stock Exchange (BSE) in the form of S&P BSE sector indices.

- **Deepinder Kaur and Tajinder Kaur (2015) –** they analysed that both public and private banks make disclosures to a large extent on different clause criteria, but from the comparison it was found that the highest score for both public-security banks and private-sector banks is the same, that is, 27. In other words, it has been seen that State Bank of India (public sector bank) and Yes Banks (private sector bank) make the most disclosures and thus largely align with clause 49 regarding the disclosure of key components in their corporate governance study.

- **V R Sridhar and Dr. M.Sakthivel Murugan (2016)** - this article attempts to research the relationship between the corporate governance practices and selected companies' financial results. The study's overall conclusion revealed that corporate governance effectiveness is determining companies' financial performance.

- **Verma and Saxena (2016) -** clarified the Indian Corporate Governance article in this sense. They used ANOVA to generalise the results their hypothesis, revealing that there is no significant difference between the disclosure practices adopted in India by selected companies in the energy sector.

- **Chahat Gupta (2017) -** researcher explains corporate governance is included in the profile of corporate competence as a distinctive characteristic and benchmark. This is an effort to build effective mechanisms that can direct and regulate corporate bodies by making them more accountable to shareholders in particular and to stakeholders at large. The present paper aims to examine the degree to which corporate governance activities are revealed among the biggest IT companies in India.

- **Kalashree, Dr. H. Rajashekar (2018) -** this research aimed to analyse pharmaceutical companies' governance activities against the disclosure requirements of clause 49. The survey comprised 35 mid cap companies and 18 large cap companies. The method of analysis includes getting scores for different standards for disclosure. And the requirements for disclosure were ranked according to those ratings. There were differences in mandatory disclosure practices between mid -cap and large cap companies.

- **Nidhi Bansal, Anil K. Sharma (2019) –** This study reveals that India's new Companies Act 2013 has highlighted the role of an audit committee and remuneration committee within Indian firms. Given these changes, the present study explores the relationship between the structures of corporate governance and the firm performance of Indian firms publicly listed on the National Stock Exchange CNX-500 during the period 2004-2013; including two relatively largely unexplored variables-audit committee and remuneration committee. The findings for the post-enactment period of the current Companies Act, that is, 2014-2018, are verified. To investigate the relationship, the method of panelling is implemented with feasible generalized least squares.

Objectives of the Study

- To increase awareness of corporate governance transparency practices in the corporate energy sector in Indian companies. (Three energy sector companies listed in Nifty 50 viz., ONGC, GAIL, NTPC).
- To establish the implementation of the Corporate Governance Disclosure Index on the basis of the mandatory and non-obligatory provisions of SEBI in the 2015 SEBI Regulations and the 2013 Companies Act.
- To conduct a comparative study of Corporate Governance Disclosure Practices using the index ranking of sampled companies.

Research Methodology

Sample Selection Criteria

This study looks at the three energy sector companies that are listed on NIFTY stock exchange under the Nifty Energy Index. Energy sector is the cornerstone of every economy, which is why the researcher finds this sector companies.

Sample Size

The three companies are considered as representative sample for the study researcher's intent and these companies are GAIL, ONGC and NTPC. Such companies are chosen based on market capitalization.

Duration of the Data

For the purpose of the study the financial year 2018-19 has been taken into consideration.

Type of Data

This study is based on the entirely on secondary data.

Collection of Data

All relevant information from the annual report has been retrieved to the updated company’s website. Many other information from different articles, studies etc. has been gathered.

Hypothesis

H0: There is no significant difference in showing the Corporate Governance disclosure practices among the selected companies of the energy sector as per SEBI regulation.

H1: There is significant difference in showing the Corporate Governance disclosure practices among the selected companies of the energy sector as per SEBI regulation.

Analysis of the Data

This research review includes the Corporate Governance Compliance Practices between three NIFTY-listed energy sector companies for the 2018 - 2019 financial year. Various governance metrics have been taken for the purpose of the analysis to assess the efficiency of the organization. To determine the level of enforcement of the main governance criterion in these companies in accordance with mandatory and non-compulsory provisions under the Companies Act 2013 and the SEBI Regulations 2015 (Listing Obligations and Disclosure Requirements). A 100-point index has been designed to determine how well these organizations obey the governance principle, whereby sufficient points weighing for governance metrics has been awarded according to their significance. Clause 49 of the Listing Agreement, Companies Act 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 identified these main governance criteria and the criterion for assessing governance. The parameters are selected on the basis of the book named “Corporate governance in India: An evaluation” written by S.C. Das. After determining total scores on the parameters given in table 1, companies will be graded on a five-point scale as given below. Score Result comprises- 90-100 at Excellent level, 75-89 at Very Good level, 60-74 at Good level, 50-59 at Satisfactory level and 0-49 at bad level.

Table 1: Criteria for Assessment of Energy Sector Companies Governance Parameters.

S.N	Governance Parameters	GAIL	ONGC	NTPC	POINTS	TOTAL
1)	**Statement of Company’s Philosophy on Code of**	1	1	1	1	1

	Governance					
2)	**The Board membership and BOD meetings were held**					5
i)	Not below 50% of the board of directors which consists of non-executive members.	1	1	1	1	
ii)	At least one woman director	1	1	1	1	
iii)	Where Chairman is Non-Executive Director-Independent Director comprises at least 1/3 of the board where Chairman is executive-Independent Director comprises at least 1⁄2 of the board	1	1	1	1	
iv)	A minimum four meetings with the BOD in one year.	1	1	1	1	
v)	Record for attendance of BOD meetings	1	1	1	1	
3)	**Chairman and CEO Duality**					5
i)	Promoter Executive Chairman- cum-MD/CEO	1	1	1	1	
ii)	Non-Promoter Executive Chairman-cum-MD/CEO	1	1	1	1	
iii)	Promoter Non-Executive Chairman	1	1	1	1	
iv)	Non-Promoter Non-Executive Chairman	1	1	1	1	
v)	Non-Executive Independent Chairman	1	1	1	1	
4)	**Disclosure of tenure & age limit of directors**	2	2	2	2	2
5)	**Disclosures regarding to Independent Director (ID)**					6
i)	Definition of ID.	1	1	1	1	
ii)	Familiarization program to ID & Details of such training provided for	1	1	1	1	

	publication in the annual report.					
iii)	Separate meeting of the ID.	1	1	1	1	
iv)	The terms and conditions of appointment shall be published on the company's website for selection criteria.	1	1	1	1	
v)	Formal letter of appointment of ID.	1	1	1	1	
vi)	Limit of No. of Directorship for ID (If whole time director then three or If not whole time director then seven)	1	1	1	1	
6)	**Disclosure of :**					2
i)	Remuneration policy	1	1	1	1	
ii)	Remuneration of directors	1	1	1	1	
7)	**Directorship and Committees' Membership/Chairmanship of directors across all companies**	2	2	2	2	2
8)	**Code of Conduct**					2
i)	Information on Code of Conduct	1	1	1	1	
ii)	Affirmation of compliance	1	1	1	1	
9)	**Post board meeting follow-up of Board procedure method and compliances.**	--	2	--	2	2
10) A)	**Board Committees : AUDIT COMMITTEE :**					8
i)	Accountability in committee composition.(Skilled and Independent)	1	1	1	1	
ii)	Compliance with the committee's minimum provision of Independent Directors No. (Three director minimum and 2/3 member ID minimum)	1	1	1	1	
iii)	Compliance of minimum	1	1	1	1	

	requirement of the number of committee meetings. (At least four times).					
iv)	Committee information on literacy & financial skills.	1	1	1	1	
v)	Data on involvement in committee meetings by Head of Finance, Statutory Auditors, Chief Internal Auditors and other invited individuals.	1	1	1	1	
vi)	Charter & terms of reference for audit committee disclosure.	2	2	2	2	
vii)	Disclosure of Committee report	1	1	1	1	
B)	**NOMINATION AND REMUNERATION COMMITTEE :**					6
i)	Formation of the committee	`1	1	1	1	
ii)	Information about number of committee meetings.	1	1	1	1	
iii)	Compliance of minimum requirement of No. of Non- Executive Directors in the committee. (At least 3 members)	1	1	1	1	
iv)	Compliance of the provisions of independent director as chairman of the committee	1	1	1	1	
v)	Information about participation of meetings.	1	1	1	1	
vi)	Disclosure of Committee report.	1	1	1	1	
C)	**SHAREHOLDERS'/STAKEHOLDERS' RELATIONSHIP COMMITTEE :**					5
i)	Transparency in composition of the committee	1	1	1	1	

ii)	Information about nature of complaint & queries received and disposed-item wise.	1	1	1	1	
iii)	Information about number of committee meetings	1	1	1	1	
iv)	Information about action taken and investors/shareholder survey	1	1	1	1	
v)	Disclosure of Committee report	1	1	1	1	
D)	**Risk Management Committee**					2
i)	Formation of committee	1	1	1	1	
ii)	Disclosure of committee charter report	1	1	1	1	
E)	**Additional committee**					4
i)	Health and Safety & Environment Committee	1	1	1	1	
ii)	CSR and Sustainable Development Committee	1	1	1	1	
iii)	Investment Committee	---	1	--	1	
iv)	Other Committee	--	--	--	1	
11)	**Disclosure and Transparency :**					24
i)	Non-compliance related to capital market matters during the last 3 years.	2	2	2	2	
ii)	Board disclosure-Risk Management	2	2	2	2	
iii)	Information to the board on Risk Management	2	2	2	2	
iv)	Significant related party transaction having potential conflict with the interest of the company	2	2	2	2	
v)	Publishing of Risk Management Report	1	1	1	1	
vi)	Management Discuss And Analysis	2	2	2	2	
vii)	Information to Shareholders- ➢ Appointment of new director/re-appointment of	1 1 1	1 1 1	1 1 1	1 1 1	

	retiring directors ➢ Quarterly results & presentation ➢ Share-Transfers ➢ Directors' responsibility statement	1	1	1	1	
viii)	Shareholder right	2	2	2	2	
ix)	Audit Qualification	2	2	2	2	
x)	Training of board members	2	2	2	2	
xi)	Evaluation of non-executive directors	2	2	2	2	
xii)	Resignation of Director with reason	1	1	1	1	
12)	**General Body Meetings :**					3
i)	Location and time of the last 3 years of General Meetings	1	1	1	1	
ii)	Details of Special Resolution passed in the last 3 AGM	1	1	1	1	
iii)	Description of the resolution passed by Postal Ballot last year including the name of the official conducting and voting procedure	1	1	1	1	
13)	**Means of Communication and General Shareholder Information**	2	2	2	2	2
14)	**Whistle-Blower Policy & Vigil Mechanism**	2	2	2	2	2
15)	**CEO/CFO certification**	2	2	2	2	2
16)	**Compliance of Corporate Governance and Auditors' Certificate :**					5
i)	Clean certificate from auditors	5	5	5	5	
17)	**Code for prevention of insider trading practices**	5	5	5	5	5
18)	**Disclosure of stakeholders' interest :**					5
i)	Environment, Health &	1	1	1	1	

	Safety measures (EHS)					
ii)	Human Resource Development initiative (HRD)	1	1	--	1	
iii)	Corporate Social Responsibility (CSR)	1	1	1	1	
iv)	Industrial Relation (IR)	--	--	--	1	
v)	Disclosures of policies on EHS, HRD, CSR, & IR	--	--	--	1	
	TOTAL	94	97	93	100	100

Sources: Annual Reports of Sampled Companies

Findings

The index table revealed the following points:

- All corporations have their own view on Governance Code.
- The Board of Directors of all three companies shall be properly formed with an appropriate balance between Executive Director, Non-Executive Director and Independent Director.
- BOD will reach a total of four times with a maximum gap of 120 days according to SEBI's Regulations Business. It is also governed by all three firms.
- Companies report the board member's term and age in compliance with the SEBI Regulations.
- In their relevant annual reports, all reviewed businesses presented details of the ID training programme.
- Only the post board meetings of the ONGC have a system of monitoring and board conformance.
- Companies shall report the remuneration of their directors in compliance with the SEBI Regulation. It also has Remuneration policies for the remuneration of the Director.
- All organizations comply with legislative committee criteria such as Audit Committee, Stakeholder Relationship Committee, Compensation Committee, Risk Committee, The Executive Committee and the Committee on corporate sustainability.

- ❖ Both businesses have developed policies on related party transactions and insider trading.
- ❖ Companies shall notify their shareholders of the appointment of new managers, quarterly company results and directors, statement of responsibility.
- ❖ Organizations shall provide descriptions of the AGM and the relevant resolution adopted in the 3AGM.
- ❖ Both organizations have a corporate governance auditor certificate.
- ❖ All companies have implemented a policy of insider trading to regulate, monitor and review insider trading.

Suggestions

- ❖ The role of the Independent Director should be published in the NTPC's annual report.
- ❖ The post board meetings of GAIL and NTPC should have follow-up system and board compliance.
- ❖ The NTPC will have programs for the creation of human capital.
- ❖ The policy on labour relations will be reported to all businesses.
- ❖ All businesses will report a policy of concern to stakeholders such as economic, health and safety policies, production of human resources, corporate social responsibility and labour relations.

Comparison of Energy Companies with Corporate Governance Standards and Disclosure for 2018-19

In this eighteenth criteria mentioned in the SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 scores were calculated for all three ENERGY companies i.e., with their subdivisions of corporate governance disclosure practices. GAIL, ONGC and NTPC follow the requirements they set. The use of IBM SPSS22 independent t-tests was used to check whether these three companies show consistency with the Corporate Governance Disclosure Practices listed in the SEBI Regulations

2015 (Listing Obligations and Disclosure Requirements). Table -1 contains the data summary-

Table-1: Descriptive Statistics

Descriptive Statistics

	Energy	N	Mean	Std. Deviation	Std. Error Mean
ONGC	1	58	.9310	.25561	.03356
	2	16	1.8750	.50000	.12500
GAIL	1	58	.9483	.22340	.02933
	2	16	2.0000	.00000	.00000
NTPC	1	58	.9138	.28312	.03718
	2	16	1.8750	.50000	.12500

Interpretation

From the above table ONGC mean is 93%, Gail mean is 94% and NTPC mean is 91% which shows that the disclosure of corporate governance is above 90% which is beneficial to the stakeholders for building trust.

Table-2: T Test Table

		Levene's Test for Equality of Variances		t-test for Equality of Means				
		F	Sig. P VALUE	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference
ONGC	Equal variances assumed	1.798	.184	-10.375	72	.000	-.94397	.09098
	Equal variances not assumed			-7.293	17.217	.000	-.94397	.12943

GAIL	Equal variances assumed	3.800	.055	-18.737	72	.000	-1.05172	.05613
	Equal variances not assumed			-35.853	57.000	.000	-1.05172	.02933
NTPC	Equal variances assumed	.888	.349	-10.014	72	.000	-.96121	.09599
	Equal variances not assumed			-7.371	17.734	.000	-.96121	.13041

Interpretation

From the table above, it is inferred that p-value is greater than 0.05 for all energy firms. Here, the null hypothesis is not accepted i.e. it should be rejected, so the study discovered that there is a substantial difference in showing the Corporate Governance disclosure practices among all the specified energy sector companies as per the SEBI guideline. This implies that all three ENERGY companies show compliance with the Corporate Governance Disclosure Practices listed in the SEBI (Listing Obligations and Disclosure Requirements) Regulation 2015 in the year 2018-19 at a level of 5 percent significance and with 72 degrees of freedom.

Conclusion

It can be inferred from the above review and interpretation that businesses in the Energy Sector have outstanding corporate governance practices. P-value has proved alternative hypothesis. Also, the terms and conditions of the Independent Director's appointment are published in the three companies' annual reports. The three entities had legislative committees such as the Audit Committee, the Stakeholders' Relationship Committee, the Remuneration Committee, the Risk Management Committee and the

Committee on Corporate Social Responsibility and also complied with the necessary provisions of Clause 49 of the Listing Agreement. Independent Director is the chairman of the Audit Committee according to the SEBI regulation in all three companies. Nonetheless, all businesses do good corporate governance practices, but SEBI should take more rigorous measures to prevent some kind of fraud and fair stock market trading in order to preserve shareholders value and greater transparency in business operations. Good regulation and a business climate free of corruption are necessary for effective disclosure in Corporate Governance. In the event of the lack of compliance with required governance practices, a penalty should be given.

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