



ROLE OF COMPANY SECRETARY: UNDER COMPANIES ACT, 2013

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ABSTRACT

This Article explores the position of company secretary professionals as the Key Managerial Personnel under the Companies Act, 2013 as per the Indian perspective. It also discusses about the role, responsibilities and the involvement of company secretary professionals in the governance of the Indian companies in the corporate sector. Though, they are assumed pivotal in the role for the corporate compliances and the implementation of corporate governance codes. These dual areas have also been highlighted in the theoretical amalgamations in the role of CS professionals as the governance officers. Apart from that, doctrinal research has been incorporated to outline the key findings of the study. In this paper, an attempt has been made to summarize and compile the several aspects related to the CS professionals which also coordinates in the governance areas. Precisely, which led to steadily rising significance to have a CS professionals who can maintain that vital communication link between the Board of Directors and the Company so as to enhance the communication and stay up to date with the developments within the corporate world especially in India.

Keywords: Company Secretary, Corporate Governance, Appointment, Duties

I. INTRODUCTION

The CS professionals are precisely making a huge impact on the company's top management. They may have progressed their way up from the positions of the clerks to become a company executive, but they still have responsibilities to the company's owners, shareholders, employees, customers, community, and governments. This is a highly regarded and esteemed profession around the world, including in India. A corporate secretary as defined in subsection (c) of sub-section (1) of section 2 of the **Companies Secretaries Act, 1980**, i.e., named by a corporate to serve as corporate secretary under that Act, is referred to as a "Company Secretary" or "secretary" in the **Companies Act, 2013**. The corporate secretary's workload is affected by the company's structure and size. Professionals in the field of CS have been delegated the authority to carry out the Secretary's ministerial and administrative responsibilities related to the implementation of this Act.

The management system, which is present in both the private sector and the public sector of the Indian economy, has a requirement for a professional to collaborate in there. This effectively cope in the corporate sectors. The term "treasurer" can also refer to other roles within the company, such as the director or the secretary of public relations, depending on the jurisdiction of the country. The Secretary of the Company (CS professionals) typically collaborates with the general management of the company, but particularly has to ensure that the laws, regulations, and policies that govern a company and the Board



of Directors' decisions are carried out properly. However, the Secretary can be held legally accountable for the Company's failure to comply with its legal obligations because they are an Officer of the Company and have fiduciary relationship with the shareholders of the company.

These professionals are qualified professionals who are also members of the Institute of Company Secretaries of India (ICSI). The ICSI is a statutory body in India that is generally concerned with the regulation, promotion, and development of the profession of CS within India. They are also known as the keepers of corporate governance, compliances, regulations, and processes, and they are the eyes and ears of the Boards on such matters. Furthermore, they are often referred to as the guardians of corporate governance. The purpose of this present article is to provide additional information regarding the function, characteristics, appointment, and rights of CS professionals working in India.

1.1 Literature Review

Devendra Jarwal, et al. (2013) the work that is being presented in this research paper centres on the history of the function of cs as an officer in the governance. The obligations and responsibilities that come with the serving as a director of the company, as well as the fiduciary relationship that this position maintains with the company's shareholders. Even the job description, the role, and the development of this career over time are covered in this article.

McNulty, T., & Stewart, A., et al. (2015) the article focuses primarily on the governing space and the development within this field in the corporate sector. It has covered topics such as their role, contribution, and dynamic

understanding in the management of the companies in which they are employed as officers along with the tasks that have been assigned to them.

Sigauke, Joseph & Collins, Patrick & Mutambara, Emmanuel & Sibanda, Rosemary., et al. (2015) the work that is being presented in this research paper is about the companies being in the corporate governance whether being private or the public companies concerning about the corporate scandals and challenges which is faced by these professionals of the company by enriching with a deeper understanding of their knowledge in the expected roles they need to perform within the company governance.

Kakabadse, A., Khan, N. & Kakabadse, N. K., et al. (2016) the work on this paper is primarily focusing on the role, discretion, and effectiveness of the board in the company. The article came to the conclusion that the effectiveness of this company professional is being dependent upon the preference of the chairman of the company.

Charul Mishra, et al. (2020) the work on this paper is concentrating on the developing positions of the professionals of the company working within the corporate sectors of India. It also discussed about the involvement of these professionals within the management of the company and giving guidelines with broad overview of the capabilities and limitations associated to their roles that they play within the firms in Indian perspective.

Rupinder Kaur Rajput, Rakshit Khandare, Saloni Yadav, Susheel Gadekar, et al. (2022) the present article discussed about the expansion of the duties, changing regulatory environment of the corporate sector and the important aspects of



the position of these professionals in the company along with their liability to the various areas in the company even the government which is handled by these officials of the firms with relation to the public relations in the current trends of developing India.

Arunima KV, et al. (2022) the work that is presented in this research paper is primarily focusing on the path of cs as a career for jobs by having recognition that is obtained from a variety of organisations or the government for the benefit of the members of such corporation. It has covered the expanded responsibilities and fields of practise for these professionals, regardless of whether or not those practises are multifaceted or serve multiple purposes in the governance of the corporation. It is discussed the roles that can be played, such as legal advisor, compliance officer, insolvency professional, etc. The gaps that were discovered are the unexplored territories in India and other countries for these career paths, as well as the challenges that come with working in an increasingly digitalized corporate environment.

Role of a CS by The ICSI (ICSI) the article offered a number of suggestions that, when its implemented, it would facilitate the greater organisation and control in the manner in which corporate secretaries carry out their work within the companies. This page has been used as a source to identify the laws that have an impact on the duties, qualifications, rights, and responsibilities of a company secretary within the India, and the present research study has used it. Contribution made by: It had supported the function of a company secretary not only in accordance with the Companies Act of 2013, but also with regard to other formal grounds of the corporate laws.

Company Secretary: A role of breadth and majesty by R.K. Maheshwari in this article will investigate the role of the company secretary in relation to a variety of strategic business decentralisations and policies enacted by the government. The focus of this investigation will be on the characteristics of the company secretary. It focuses on the ways in which the burden that comes along with the responsibilities of a business secretary has grown significantly over time as well as the ways in which those responsibilities have grown significantly over time. As a direct result of this, the variety of responsibilities that are expected of a corporate secretary has elevated over the period of time. The article draws attention to the fact that the Companies Act of 2013 does not fully acknowledge the necessity of a number of standards for the operation of a business secretary's office. These standards are discussed in greater depth in the article. The author did not address the question of whether or not the suggestions and recommendations could be applied, despite the fact that both the suggestions and the recommendations were authentic. Contribution made by: This provides a platform for the current paper to evaluate the application of such recommendations and scrutinise its significance in enhancing the function of a company secretary.

Duties Within The Domination Space: A Study Of The Role Of The CS On Current Boards by Robyn L Trubshaw in this, the contradictory roles of the corporate secretary, or legal counsel and chief financial officer, were examined. This essay explored the broad function of a company secretary in the business administration and how that job opportunities has grown within the advent of the time. Contribution made by: It covers a variety of legislative developments as well as



the court rulings that have extensively covered how company secretary rights and obligations have changed over the over the past century.

Profession of a Company Secretary-Surging ahead by CS NK Jain in this book as a proposition, the research presented here investigates a number of different case studies in order to provide the reader with an understanding of the function that a company secretary serves to fulfil within an organisation. The following items were provided as donations: To demonstrate how essential a company secretary is to the expansion of the economy and how well-known the company is on the many continents of the world that have been taken into account in this research, the author has provided a number of case studies and real-world scenarios that have been taken from actual events. These illustrations and hypothetical situations are a component of the research that was conducted.

A Guide to Companies act by A Ramaiya, 17th Edition, Part-2 in this book a statement of the proposition: the focus of the research that was carried out for this book was on the operation of the CS and the performance of the board. The following elements all made a contribution: This book examines the role of the company secretary, which is intended to be the chief legal officer of the corporation and the chief manager to the board of directors, as well as the ways in which this role shifts at distinctive top levels of companies.

II. APPOINTMENT OF COMPANY SECRETARY

If not specified in the Articles of Association, the first Secretary of a corporation is typically elected by the

founding members. The Board of Directors may vote to accept the name "First Secretariat" if it is chosen at a later date. The Board of Directors should decide on the specifics. It's possible to give the Administrator the position of Secretary of State as well. Companies with a paid-up share capital of 10 Crore Rupees or more are required to employ a full-time key managerial person, which includes a Company Secretary, in accordance with **Section 203**, read in conjunction with Rule 8 of the Companies (Appointment and Remuneration of Management Personnel) Law, 2014 (as amended).

“With respect to the unlisted Public Companies the prescribed amount of capital for compulsory appointment of Company secretary is fixed at 5 Crores. Even Private Companies with a paid-up capital of 5 Crores or more has to have an all-time CS. Thus, all listed Companies,² Unlisted Companies and Private Companies shall have obligatory CS, based on their paid-up capital. Whole time the Company Secretary of a company is key managerial personnel (KMP) who is appointed by the passing of a resolution by the Board of Director and such resolution shall specify rules and conditions of his appointment which includes the definite remuneration.”

Notwithstanding this, it is not required for a CS to sometimes be designated as a company director. This can happen, but it is not required. It is possible for a CS professional working full-time to hold the Secretary position in just one of the companies, but not both. They are required to make a decision regarding which of their companies they wish to work for as a CS professional if they have more than one



company. The board of directors is obligated to fill any vacancies that may occur in the position of full-time Company Secretary within a period of six months after the vacancy occurred.

“If there is any contravention with Sec. 203¹ by any of the company, it will be punishable with a fine of not a lesser amount of than 1 Lakh rupees and the company’s key managerial person and director (including the whole-time company Secretary) who is in default shall be punishable with a fine which may extend to 50,000 Rupees and where the offence is continuing an additional fine which might extend to Rs. 1000 for each day after the first day during which the breach continues”².

2.1 QUALIFICATIONS OF A COMPANY SECRETARY

Academic qualifications essential for Cs professionals:

A Company Secretary can take on a wide variety of different roles and be responsible for a wide range of different tasks. To put it more simply, improved comprehension requires the addition of additional information. Because they are the representatives of the business to the general public, it is essential for them to be able to communicate fluently in a variety of tongues and lingo in order to be successful. As a result, it is necessary to ensure that it is always up to date with the latest general information regarding the management of

the company's operations.

Qualifications essential for Cs professionals as Specialists:

The Secretary of the Corporation must be trained in secretarial procedure and have experience in this area in order to ensure that meeting notes, motions, reports, and minutes are properly documented. They must be cognizant of the need to protect the confidentiality of employee communications. The Corporation's Director must be familiar enough not only with the business law but also the industrial and commercial law, income tax law, the Stamps Act, generally accepted accounting principles, and SEC regulations to ensure that the Corporation abides by all applicable laws and rules. When dealing with trade and funding, a company secretary should have a solid grounding in the intricacies of the financial and capital markets, as well as foreign exchange and societal and economic conditions. Knowing how to use a machine for document storage and possible data or information use requires specific skill sets. The Group Secretary needs to be well-versed in human resources in order to keep everyone happy.³

Characteristics of a Good Company Secretary

A company secretary is a highly visible employee, so they should exemplify the following characteristics: honesty, integrity, dedication, respect, punctuality, tact, wisdom, a sense of duty, and perceived severity. In

¹ ICSI - Home, , <https://www.icsi.edu/home/>

² Company Secretary: A worth doing course for a good Career, , <https://www.sarvgyan.com/courses/company-secretary>

³ The most sought-after job: Company Secretary -The Hindu BusinessLine, , <https://www.thehindubusinessline.com/news/the-most-sought-after-job-company-secretary/article28158515.ece>



addition, they should be dedicated to their duties.

LEGAL STATUS OF A COMPANY SECRETARY

Pursuant to *Section 2(29) of the Companies Act, 2013, the word "officer" encompasses any manager, manager or main managerial staff (including a corporate secretary).*⁴

Such contractual obligations were imposed on the Secretary of the Corporation by the Company Act of 1956, although the regulation does not specify their precise function. The legal standing of the Group Secretary can be deduced from the Secretary's primary responsibilities.

The secretary is merely an employee of the company and is required by the law to perform their duties in full compliance with the direction and oversight provided by the board of directors.

They will execute the Director's orders. However, since Lord Esher's verdict in 1887, everything has changed. The Group Secretary's legal justification has completely changed. The secretary of the company currently plays an important role in the company's management oversight.

They are firm administrators who are well-versed in their responsibilities and tasks. They never get an unbiased spokesperson. It constantly reflects the depictions in the interest of the organisation and enters contracts for its purpose that fall within the daily operations pertaining to the issue of the organisation, to such an extent that it may be considered as holding the position.

Those responsibilities which will be beneficial to the organisation in general. In accordance with the Organizations Act, this professional is also considered to be the highest-ranking official of the organisation and is assigned the task with providing the Registrar of Companies with various returns. It is now clear that the secretary has a legitimate position in the legal system. They are required to continue their role as the company's formal director in accordance with the Companies Act, and they are also accountable for providing the Registrar of Companies with multiple reports. But nevertheless, the secretary's overall statutory reserve requirement far beyond those of a business servant, despite the fact that this is their official designation under the law.

The Manager of the Company is responsible for making the BOD's policy choices. They play an important part in the company's management. They must make rapid choices on a number of regular issues while on the job. As CEO of the Group, they have significant influence on the Board of Directors and give vital input on the Board of Directors' policy choices. Because they do not have sufficient time to interact with clients, employees, and the media because they are completely devoted to company growth.

The BOD's decisions must be communicated to the workers, shareholders, and the general public by the CS specialists. The CS serves as the liaison between the executives and the rest of the team. The Board of Directors must seek professional guidance from him since they have a thorough grasp of the Companies Act. The

⁴ Appointment of Company Secretary as per Companies Act 2013, , <https://taxguru.in/company->

law/appointment-company-secretary-companies-act-2013.html



Secretary will call and attend all business meetings. He must create the agenda and send a notice to all parties involved in order to facilitate the meeting's chairman in scheduling the meeting.⁵

Directors serve as the organization's conscience because they establish the agenda. But when it comes to shaping the company's policy decisions, the board of directors must rely heavily on the manager. It is correct to say that while the executives are the business's minds, the assistant is its mouth, eyes, and hands.⁶

III. DISMISSAL OF COMPANY SECRETARY

A secretary's position can be terminated by a resolution of the Board of Directors. The Director, as an employee of the firm, will be subject to the company's normal working regulations. It can be avoided by providing adequate written notice or by offering payment in lieu of such notice. Even though a secretary is hired for a set length of time, the client has the right to fire him at any moment by providing enough notice. However, a secretary may be fired without cause under the following circumstances:

- Whether it being a willful disobedience,
- For being dishonesty, incompetence, moral turpitude, negligence, and permanent disability.

If the company is wound up by the court, the order will also serve as notice of discharge

to the company's officers and employees, including the secretary.

If a director's appointment is terminated, that individual has thirty days to provide the Registrar of Companies with the required information in the prescribed form and in the prescribed manner. The Board of Directors, the Managing Director, the Treasurer, etc. should all be updated accordingly.⁷

3.1 FUNCTIONS OF THE COMPANY SECRETARY

Pursuant to *Sub-section (1) of section 205 of the Company Act, 2013*, The Secretary of the Company shall be responsible for submitting periodic reports to the Board of Directors detailing the extent to which the Company's Business complies with the applicable secretarial standards and any other duties that may be prescribed by the Act.

3.2 DUTIES OF A COMPANY SECRETARY

General duties:

“The responsibilities of the secretary differ depending on the size and function of the company and the scope of the contract established with it. In the ordinary course of the operations, he shall be present at all meetings of the corporation and at all meetings of the directors and shall make the proper minutes of the proceedings. It shall issue, under the guidance of the Board, all

⁵ C.A. Portal, Duties & Responsibilities Handled by A Company Secretary, <https://caportal.saginfotech.com/blog/duties-responsibilities-by-company-secretary/>

⁶ Bindan Singh V. Institute of Company Secretary of India, 180 (2011) DLT 153

⁷ Duties of a Company Secretary: Factors and Classification, <http://www.yourarticlelibrary.com/company-secretary/duties-of-a-company-secretary-factors-and-classification/74616>



appropriate notifications to Members and others.”

“Correspondence with creditors regarding further matters of cons and calls, transactions, and forfeitures; He controls the Saks of the corporation or others relevant to the internal business of the company, such as the Registry of Investors, the Shareholders, the Transaction Record, the Register of Debt Holders, the Registration of Transfers, and performs other administrative duties. Furthermore, it is responsible for filing the necessary reports with the Registrar of Companies”.

Statutory Duties

Rule 10 of the Company's Rules of Procedure (Designation and Remuneration of Managerial Personnel) of 2014 it defines the Secretary's additional duties, which include: representing the Company before its various regulators and other authorities; promoting the convening of meetings and attending meetings; representing the Company before its various regulators and other authorities; assisting the Board in the conduct of the business of the Company.

To carry out other duties as set forth in the Act or the rules, and to carry out such other duties as may be assigned. To aid and advise the Board in ensuring good corporate governance and in complying with corporate governance, i.e., requirements and best practices.⁸

⁸ The role of the Company Secretary — MOORE, <https://www.moore-southafrica.com/services/business->

3.3 RIGHTS OF THE COMPANY SECRETARY

The Companies Act, the Board of Directors, and the shareholders all grant the secretary specific responsibilities and authority. As a result of his employment contract with the firm, he is also entitled to certain benefits. There are protections in place for secretaries:

They are entitled to the below- mentioned rights:

- *Control and supervise the operations of his division;*
- *As a principal officer of the company, they are authorized to sign documents or participate in proceedings that require authentication by the company.*
- *They are also entitled to be indemnified by the company for any loss incurred by them in the course of performing their duties.*

They are also entitled to receive compensation for their services. Salary up to a maximum amount that may be notified will be treated as a preferential creditor in the event of a winding up of the company.

However, a secretary has no authority to borrow funds in the company's name, make allotment of shares, or register transfer of shares without the approval of the Board of Directors. If the Board does not give them permission to call a meeting or remove a member's name from the membership list (the "Register of Members"), they also lack the power to make major policy decisions on behalf of

[outsourcing/company-formation-secretarial/the-role-of-the-company-secretary](https://www.moore-southafrica.com/services/business-outsourcing/company-formation-secretarial/the-role-of-the-company-secretary)



the company.⁹

IV. LIABILITIES OF THE COMPANY SECRETARY

The discussion on liabilities of a company secretary may be grouped under two broad heads:

- (a) Statutory Liabilities, and
- (b) Contractual Liabilities Statutory Liabilities.

4.1 Statutory Liabilities

The Company Act has perceived the secretary as a key administrative staff of the organization, and such, different liabilities have been forced upon him. According to **Section 2(60)** of the Act, a secretary has been remembered for the rundown of "*Officials in default*" and is made at risk to substantial punishments for any default or resistance of the arrangements of the Act. The CS will be subject for completing the tasks of the Firm in consistence with the Companies Act's regulations. In this way, controlling the arrangements of specific consumer standards is at risk. As a result, the Director of the Company may be held accountable for a variety of negligent or criminal acts committed within the Company.

The company secretary may be held liable for the following matter under Companies Act:

- **Default in filing allotment returns** - "If

a fault is made in compliance with the recording returns as to the credential of offers inside the prescribed time, they will be held accountable with a fine that may extend to one thousand rupees for each day the default continues, or one lakh rupees, whichever is less."

- **Default in the preparation of share/debenture certificates** - As per **Section 56(4)** All indicated, transferred, or communicated safeguards will be endorsed by the firm. If any endorsers of the reminder are found within two months after the consolidation date, notice should be given. due to any designation of any of its offerings, within a period of 2 months after the date of distribution. Within a month after the day the organisation received the instrument of transfer under **sub-section (1)** or, *all things considered, of the insinuation of transmission under sub-section (2), on account of a transmission of protections; c. move or, Within a time of a half year from the date of portion if there should arise an occurrence of any distribution of debentures.*

When securities are received in a depository, the corporation shall automatically include into the description of the transfer of the depository's shares on the issuing of such shares.¹⁰ In the event of a default, the company secretary, as an official in default, shall be subject to a fine with not below ten thousand rupees but not less than one lakh rupees.¹¹:

⁹ Role of Company Secretary Play in Corporate Business | CA Portal, , <https://caportal.saginofotech.com/blog/what-role-company-secretary-play-business/>

¹⁰ Wisteria Accountants, The Role of a Company Secretary (11:41:27 UTC), <https://www.slideshare.net/WisteriaAccountants/the-role-of-a-company-secretary>

¹¹ Company Secretary - What Does a Company Secretary do in Ireland?, ,



- **“Default regarding Register of members/ debenture holders, etc.-** Disappointment will render the Company Secretary culpable with a fine that will not be less than 50,000 rupees but which may extend to three lakh rupees. Where the disappointments are a proceeding with one, a further fine which may extend to 1,000 rupees for repeatedly, after the first during which the disappointment proceeds.
- **Default in the filing of particulars regarding charges** - Each official of the organisation, including the organisation secretary, will be liable for either detention for a term that may extend to a half year or a fine that will not be less than 25 thousand rupees but that may reach one lakh rupees, or both, in the event that a default is made in recording with the Registrar the details of any charge made by the organisation.
- **Default regarding the publication of name of company** - In case a default is made in getting the name and address of the enrolled office of the association painted or secured or printed outside every office or spot of business or engraved on the sum of its business letters, charge heads etc., association secretary, in case they are in default, will be dependent upon discipline of one thousand rupees for reliably during which the line of default continues yet not outperforming one lakh rupees.
- **Default in recording of yearly returns-** A company secretary will be subject to a punishment that won't be less than 50,000 rupees but might reach upto five lakhs of rupees if they fail to file the annual report or if they previously approved the annual report without adhering to the regulations established under those regulations.
- **Default in holding annual general meeting** - Default in holding the yearly comprehensive gathering as per the arrangements from Sections 96-98, will make him at risk to a fine which may reach out to one lakh rupees and on account of a proceeding with default, with a further fine which may stretch out to 5,000 rupees for consistently during which such default proceeds.
- **Default in circulation of members resolutions** - If a default is made in 'circulating members' resolutions of which they have given notice to the company, they shall be punishable with fine which may extend to Rs. 25,000.
- **Default in registering certain resolutions and agreements** - In case of default they shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.
- **Default in recording the minutes of the meetings-** If a default is made in recording the minutes of all proceedings of every general meeting and meetings of the Board, a fine of Rs. 5000 maybe levied upon the officer in default which includes CS.
- **Default in minute books or allowing inspection or furnishing copies of minutes to members-** If a failure to provide a duplicate of the minutes within seven working days of the date

<https://accountantonline.ie/guides/i-need-company-secretary/>



that any party requested one occurs, or if a review is not authorized, the offender will generally be subject to a punishment of Rs. 5,000 for each refusal or default.

- **Failure to give notice of Board's meeting** - The Board of Directors will convene after giving at least seven days' notice in writing to each executive at the address on file with the organisation, which may be done by hand, email, or other technological means. Failure to provide notification will result in a punishment of 25,000 rupees for each official of the business (CS professional is one such person) whose duty it is to withdraw under this arrangement and fails to comply.
- **Failure to maintain the register of directors and key managerial personnel and their shareholders** - Director of the Organization in default shall be disciplined with a penalty of not less than fifty thousand rupees, but this can stretch to five lakh rupees.
- **Failure to maintain register of inter-corporate loans and investments**- for this default organization secretary, in the event that he is in default will be culpable with detainment for a term which may stretch out to two years and with fine which will not be under 25,000 rupees however which may reach out to a lakh rupees.

Aside from the responsibilities that have been outlined above, professionals who work in CS are also held accountable by a number of statutory regulations. These regulations include the Income Tax Act for DS and the Stamp Act for stamping share certificates,

share warranties, and debentures transfer forms, among other things. In addition to that, they are required to comply with the Employees State Insurance Act as well as the Minimum Wage Act. Even so, the Wage Payment Act, the Industrial Dispute Act, and other comparable pieces of legislation, such as the Foreign Exchange Management Act.

4.2 Contractual Liabilities

For reality, a corporate secretary enters into various service arrangements with clients and their contractual responsibilities may be focused on such arrangements. Many of these duties are as follows. For time to time, the Secretary will obey the orders of the Board of Directors as he does. The qualified secretary will take charge of the company's personal needs and reverence for the rules. The secretary of the business shall make no hidden benefit on the grounds of his role in the group. The Secretary shall not act beyond the powers assigned to him by the Organization. Since they serve as the officer of the company and also the manager, they will be held accountable for any damages or liabilities that the company sustains as a result of their own sheer incompetence. If the Organization is found to have been harmed as a result of the Director revealing such confidential information to a third party, the Organization will be directly responsible for compensating the Client for any liability or harm that the Business may have incurred as a direct result of being exposed to such information. Any offence that is committed or error that is made will fall under the responsibility of the Secretary.

However, if the secretary has acted in good faith without negligence, he shall not have any liability. He is would not be



responsible for any fraud or damage caused by his subordinates, except when he is in for such fraud.

V. COMPANY SECRETARY AND HIS/HER ROLE

The organization secretary assumes a significant job in organization. From the situation of an assistant, he has ascended to the degree of an official of the organization. The extent of his job relies upon the size and nature of the organization. He is subject not exclusively to the organization, yet in addition to its investors, leasers, representatives, purchasers, society and the Government. As a rule, the organization secretary assumes a three-overlap job as a statutory official, as a Coordinator and as a regulatory official.

Secretary As statutory officer

As one of the principal officers of the company, the company secretary is responsible for strict compliance with the various provisions of the Companies Act. Some of which are given hereunder:

- Under **Section 21** he is authorized to sign any document for authentication.
- Under **Section 92(1)** he is authorized to sign and deliver to the Registrar the Annual Return of the company made up to the date of the close of the financial year.
- Under **Sections 134 and 137(1)** he is authorized to authenticate the financial statement, including consolidated financial statement, if any, of the company and deliver the same to the Registrar of Companies within 30 days of the Annual General Meeting.

- An obligation has been imposed on company secretary for filing of various returns under the Companies Act, 2013 with the Registrar of Companies, viz, return of allotment, return of creation and satisfaction of charges, annual return, change of registered office, etc.
- He is duty bound to issue share certificates and debentures under section 56. 6. He is duty bound to maintain various statutory registers, viz-
 - (i) Minutes of General Meeting and Board Meetings
 - (ii) Register of Members, debenture holders and Index
 - (iii) Register of changes among directors
 - (iv) Register of directors and key managerial personnel and their shareholdings
 - (v) Register of charges
 - (vi) Register of loans and investments, etc.
- They are duty bound to send notices for convening the meetings of shareholders and debentureholders, etc.

As a statutory officer, the company secretary is also responsible for ensuring compliance with the provisions of other Acts. Some instances of these Acts include the Competition Act, the Securities (Contracts and Regulation) Act, the Income-tax Act, the Foreign Exchange Management Act (FEMA), the Indian Stamp Act, the Sales Tax Act, and various Labor laws such as the Factories Act, the Minimum Wages Act, the Payment of Wages Act, and the Industrial Disputes Act.



5.1 Secretary as coordinator

In the company, the secretary occupies a top administrative position. The organization's Board of Directors outlined the general strategies to be followed by the organisation. The responsibility of overseeing the organization's efforts and ensuring their completion falls on the officials of the organisation. Currently, it should be clear that a secretary cannot be adequately viewed as proportionate to the task of the boss executing management boundaries in the Board's processes and judgments. They need to co-associate between the Board and various authorities. They can be said to be the 'mouthpiece of the Board'. The organization secretary accepts the activity of a Coordinator not simply inside different levels. The secretary is a noteworthy the organization, yet furthermore with the outsiders, for instance, financial specialists, society and unmistakable Government workplaces. The secretary's activity as a coordinator has two points of view - inside and external. Their activities as an inside coordinator involves his activities between the Board, managing boss and the overseer from one perspective and other line and staff authorities, specialist's organization and analysts of the organization, on the other. This activity as an external coordinator relates to the relationship of the organization with speculators, Government and society.

5.2 Internal role as a coordinator:

- **Relating to the Board, chairman and managing director** – The CS is answerable for the holding of gatherings of the Board of Directors and loan bosses. This will hold the Board refreshed about the exercises of the

business and the additions created in the different regions, console them in regards to the particular administrative obligations put on them, and prompt them on the most present enhancements and patterns in the professional workplace. He must deal with the Council of Bosses. It permits the Board to settle on different choices. That is the reason it's asserted that when administrators are the organization's brain, the secretary is the organization's head, eyes, and hands.

- **Identifying with the workers** - The company secretary plays a crucial role in organizing the firm's employee strategy. Even though there could be a distinct faculty office responsible for hiring personnel, at the end of the day, the secretary must advise the top management on labour planning, the recruitment strategy, and making sure that the positive working relationships are maintained. The secretary must ensure that the details of various work government aid regulations are thoroughly agreed to. Whenever an agreement is reached with the employee's employer, the secretary should write a legal note of the agreement so that there is no confusion or disagreement later. The secretary has a big job to do. task to carry out in looking after control. Prior to making any disciplinary move, he should guarantee that the lawful customs and methodology are followed, the secretary must put forth conceivable attempt to keep up welcoming relations with the representatives; and then just the targets of the company could be accomplished. The innovative exercises of workers ought to be empowered and any place



potential awards and endowment from the company ought to be given.

- **Identifying with the evaluators** - Each corporation is required to have a certified auditor review its records, and then present the annually audited accounts to the general assembly of financial experts at the annual wide assembly. In addition to statutory audits, several laws also call for analyst's assistance. Thus, the secretary must collaborate with the analysts. The organisation secretary must make sure that the overseers' decisions are made in accordance with the Companies Act's provisions. The secretary must ensure that all materials needed by assessors for audit work, such as books, reports, objectives, etc., are made available to them on time.

5.3 External role as coordinator

- **Relating to the shareholders** - For keeping up friendly relations with the financial specialists, the organization secretary needs to keep up proper association or contact between the Board and the speculators. Under the Companies Act, speculators hold the choice to get share presentations, warning of meetings, benefit warrants, etc. In time, to survey books and registers of the organization and have focuses of registers on portion of embraced charges. The secretary must ensure that the benefits of financial specialists are respected in time and the concentrates of registers mentioned by speculators are given to them inside the statutory periods. The secretary should ensure that all letters and protests from speculators are quickly overseen and

their requests are answered without harming the statutory game plans. He should be obliging and amicable while overseeing financial specialists.”

5.4 As an managerial representative

By being such officer they are responsible for the organization's efficient administration. They must ensure that the organization's strategies are properly implemented in the corporations. It is responsible for not only managing, examining, and organizing the activities of various offices, such as organisation, personnel, and friends. The best results can be achieved with an effective organizational structure. The Group Secretary is in a position that allows him to have a broad perspective on the various aspects of corporate administration and to construct a solid and efficient organizational structure. They may need to play a significant role in the financial organisation by analyzing budget reports and recommending appropriate advances; however, in large organizations, the financial aspect is handled by an expert. The Secretary will assist the Board in making agreements and negotiating with the government and financial institutions. In addition, the Secretary has an important role in the administration of the organization's personnel. It could provide the Board with important guidance regarding enlistment, preparation, compensation, and support for retirement, release, and order of staff. The Company Secretary will ensure that the company's products and property are insured and properly maintained. They must ensure that they are not mistreated. He must ensure that properties and various reports are adequately insured against legend



through fire and other perils. Additionally, the Director of the Company must ensure that accurate records are kept. The official has always played a crucial role in the financial management of the organisation, but with the phenomenal changes occurring, this role has become even more crucial. The secretary must always be prepared to play a crucial role in managing the organization's finances.

VI. JUDICIAL PRECEDENTS

There are several important historic legal decisions that have positively impacted how organizations perform as well as the role of company secretaries. Following is a few of them:

In *Barnett Hoares & Co. v. South London Tramways Co. Ltd.*¹², it was observed that “the position of the secretary changed considerably over a period of time as previously a secretary was considered as a mere servant and his position was that he was to do what he was told and no person can assume that he has any authority to represent anything at all. But later, in the case of *Panorama Developments (Guildford) Ltd. v. Fidelis Furnishing Fabrics Ltd.*¹³, it was Lord Denning that came to the conclusion that a company secretary is now a very important person, significantly more so than he was in 1887. Today, a company secretary is an officer of the company and has a wide range of obligations and responsibilities. He is no longer considered to be a simple clerk. He routinely makes representations on behalf of the company, enters into contracts on

behalf of the company, and makes representations on behalf of the company when entering into contracts. In this particular case, Mr. Justice Salmon made the additional observation that the secretary ostensibly possesses the authority to sign contracts on behalf of the company.

Further in the case of *Re, Cleadon Trust Ltd.*¹⁴, it was observed that he cannot borrow money in the name of the company, in *Re, Haycraft Gold Reduction and Mining Co. Ltd.*¹⁵, it was held that he cannot call a meeting of the company while in the case of *Chida Mines Ltd. v. Anderson*¹⁶, it was held that he cannot register transfer of shares without the Board's authority.

At last, in the recent landmark judgement of *Lakshmi Rattan Cotton Mills Ltd v. Aluminium Corporation of India Ltd.*¹⁷, it was held that the company secretary cannot acknowledge a debt in any suit against the company.”

VII. CONCLUSION

As per the findings of the aforementioned research study, with adherence to the strict corporate governance there is the standards and stronger transparency regulations that would undoubtedly make the Indian business sector more transparent, and the company secretary plays a critical role in achieving this. In addition, to the adhering to the terms of company law, the Company secretary professionals must comprehend and maintain an up-to-date experience in corporate governance and understanding of the laws

¹² Barnett Hoares & Co. v. South London Tramways Co. Ltd. [1887] 18 QBD,817

¹³ Panorama Developments (Guildford) Ltd. v. Fidelis Furnishing Fabrics Ltd, [1971] 2 QB 711

¹⁴ Re, Cleadon Trust Ltd, [1939] Ch. 286

¹⁵ Re, Haycraft Gold Reduction and Mining Co. Ltd., [1900] 2 Ch. 230

¹⁶ Chida Mines Ltd. v. Anderson, [1905] 22 TLR 27

¹⁷ Lakshmi Rattan Cotton Mills Ltd v. Aluminium Corporation of India Ltd., AIR 1971 SC 1482



regulating its administration and the functioning. The corporate secretary represents in this scenario to serve as a "Proxy" and fill in any knowledge gaps in that area which could be developed throughout the board discussion.

In addition, it has been proposed that a competent corporate secretary should ensure that their client understands the human side of corporate governance in addition to maintaining the customary precautions along with good governance in the corporate world. This is in addition to the fact that good governance in the corporate world is something that a competent corporate secretary ought to be doing. Before progressing with it though, we really ought to be certain we take into account the following factors. This will involve informing the Chairman of any emerging suspicious activities or potentially damaging practices, informing the Board of the opportunity to gain insight about corporate governance, and informing them of best practices in the time that they interact with clients. In addition, this will involve informing the Chairman of any opportunities to gain insight about corporate governance.

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