

**GOVERNMENT OF INDIA  
CORPORATE AFFAIRS  
LOK SABHA**

UNSTARRED QUESTION NO:4394  
ANSWERED ON:20.02.2014  
INVESTIGATION BY ROC  
Azad Shri Kirti (Jha)

**Will the Minister of CORPORATE AFFAIRS be pleased to state:**

- (a) whether an application under Section 397 and 398 is tenable only when 20 percent of the total number of members give their consent in writing for filing such an application;
- (b) if so, the details of such applications received during the last three years including under Section 25 Not for Profit Companies;
- (c) whether the Union Government has powers to apply to Company Law Board for an order or cause an application to be made to the CLB for such an order by any person authorised by it, in this behalf along with the number of times it has been used during the last three years and the current year and if so, the details of the cases in which the Registrar of Companies (RoCs) has ordered investigation under various sections of the Companies Act and whether the Delhi and District Cricket Association (DDCA) is included in the same;
- (d) whether the Ministry had instituted an inquiry under Section 209A to inspect various charges of maladministration, malgovernance and misappropriation of funds against the DDCA and if so, the details thereof including the findings of the said probe and the action taken thereon;
- (e) whether the RoC/Government has taken over the administration by appointing Administrators in cases of guilty companies including the DDCA;and
- (f) if so, the details thereof for the last three years and the current year?

**Answer**

MINISTER OF THE STATE (INDEPENDENT CHARGE) IN THE MINISTRY OF CORPORATE AFFAIRS (SHRI SACHIN PILOT)

- (a) As per the provisions of Section 399 of the Companies Act, 1956 (the Act) following Member(s) of a company can file a petition before CLB under Sections 397 and 398 of the Act:
- (1) In case of a company having share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, provided that the applicant or applicants have paid all calls and other sums due on their shares.
  - (2) In the case of a company not having share capital, not less than one-fifth of the total number of its members;
  - (3) Any Member or Members of a company as authorized by the Central Government.
- (b) During last three years, 1196 petitions under Sections 397 and 398 of the Act were directly filed by the contesting parties before the CLB which included seven petitions relating to Section 25 companies.
- (c) Yes, Madam. Section 401 of the Companies Act, 1956 empowers the Central Government to file such petitions while Section 399(4) of the Act empowers the Central Government to authorize any member or members of a company to file such petition before the CLB. During the last three years, and the current year, the Central Government has not filed any petition before CLB under Section 401 of the Act and in one case, authorization under Section 399(4) of the Act has been given by this Ministry. ROC is not authorised under the Companies Act, 1956 to order investigation into the affairs of any company as these powers are vested with the Central Government under Section 235 and 237 of the Companies Act, 1956.
- (d) The Ministry had ordered inspection under Section 209A of the Companies Act, 1956 of the books of accounts and other records of DDCA. The inspection report in the matter has since been submitted to the Ministry. Registrar of Companies, Delhi has been directed to initiate legal action for non-compliance of various provisions of the Companies Act, 1956 highlighted in the report.

Further, Regional Director (Northern Region) of this Ministry has taken up the matter of strengthening internal control systems and governance issues with the Executive Committee of the company with an advice to constitute an Audit Committee. Certain administrative issues have been brought to the notice of Ministry of Sports as well as Ministry of Urban Development. Explanation of the auditors have also been called for, for not qualifying their reports regarding non-compliance of certain provisions of the Companies Act, 1956 by DDCA.

(e) ROC/ Central Government has no powers under the Companies Act, 1956 to take over administration of any company by appointing Administrators.

(f) Does not arise in view of (e) above.