



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

## Adjudication Department- I

### Adjudication Division

*Before*

**Shahzad Afzal Khan, Director/ Head of Department**

*In the matter of*

**The National Silk & Rayon Mills Limited**

Show Cause Notice No. & Date      CSD/ARN/232/2015-122 dated June 08, 2023

Date of Hearing:                              July 19, 2023; August 17, 2023; September 07, 2023

Present:    Mr. Nazir Ahmad Shaheen – Nazir Shaheen & Associates  
(Authorized Representative); Mr. Qaisar Ali, Manager  
Internal Audit

### ORDER

#### Under Section 166 of the Companies Act, 2017 read with Sections 169 and 479 thereof

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (**the Commission**) through Show Cause Notice dated June 08, 2023 (**the SCN**) issued, under Section 166 of the Companies Act, 2017 (**the Act**) read with Sections 169 and 479 thereof, to The National Silk & Rayon Mills Limited (**the Company**) hereinafter referred to as the **Respondent**:

2. Brief facts of the case are that review of the annual audited financial statements of the Company for the financial year ended June 30, 2022 revealed that M/s Riaz Ahmad & Co., Chartered Accountants (**the Auditors**) in their review report on the Company's Statement of Compliance (SoC) with the Listed Companies (Code of Corporate Governance) Regulations, 2019 (**the Regulations**) highlighted that the directors did not qualify the criteria of independence. The Commission vide email dated March 13, 2023 sought clarification from the Auditors with respect to the aforesaid non-compliance, in response to which the Auditors stated that the Company has not provided any evidence substantiating the independent directors registration under the Pakistan Institute of Corporate Governance (PICG) databank.

3. The Commission vide letter dated March 17, 2023 sought explanation from the Company with respect to the afore-stated non-compliances. The Company, vide letter dated March 28, 2023, submitted that:

*"The Company complied with the requirements of Section 166 of the Act regarding the independence of Mr. Shehzad Ehsan and Mr. Muhammad Arif. However, the names of these two directors were not included in the database of PICG."*



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4. In order to take cognizance of the aforesaid contravention, the SCN was served upon the Respondent seeking justification for appointing individuals as independent director whose names were not registered with the databank maintained by PICG. The Company vide letter dated July 10, 2023 submitted written response and relevant extract thereof is provided hereunder:

- Mr. Shehzad Ahsan has been registered in the PICG database while registration of Mr. Muhammad Arif is in process;
- The company had remained fully compliant since incorporation. Directors and their family members hold more than 98.4% shares of the company whereas the general public has just 1.56%, therefore, the stake of general public is not involved just like other listed companies.
- We understand significance of the said section and will definitely ensure future compliance, therefore, it is requested that SCN may kindly be withdrawn & set aside.

5. In order to provide opportunity of personal representation, final hearing was scheduled for September 07, 2023 wherein Mr. Nazeer Ahmad Shaheen of Nazeer Shaheen & Associates appeared on behalf of the Company as its Authorized Representative (AR) and reiterated aforesaid written response and further stated that:

- i. One of the independent director, Mr. Shehzad Ahsan, after completing directors training program, has been registered on the databank of independent directors maintained with PICG, while registration of second independent director, Mr. Muhammad Arif is in process; and
- ii. General public holds only 1.6% shares while remaining 98.4% shares are held by the family members, therefore, public stake is negligible, therefore, requested lenient view.

6. The AR was advised to submit evidence of registration of the Mr. Shehzad Ahsan with PICG. The AR vide email dated September 07, 2023 submitted evidence of registration of Mr. Shehzad Ahsan in databank of independent directors maintained by PICG.

7. Relevant provisions of the Act are reproduced as under:

*"166. Manner of selection of independent directors and maintenance of databank of independent directors. - (1) An independent director to be appointed under any law, rules, regulations or code, shall be selected from a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as independent directors, maintained by an institute, body or association, as may be notified by the Commission,*

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*having expertise in creation and maintenance of such data bank and post on their website for the use by the company making the appointment of such directors:*

*Provided that responsibility of exercising due diligence before selecting a person from the data bank referred to above, as an independent director shall lie with the company or the Government, as the case may be, making such appointment."*

*"169. Penalties. - Whoever contravenes or fails to comply with any of the provisions of sections 154 to 168 or is a party to the contravention of the said provisions shall be liable to a penalty of level 2 on the standard scale and may also be debarred by the authority which imposes the penalty from becoming or continuing a director of the company for a period not exceeding three years."*

8. I have gone through the facts of the case, considered both the written and verbal submissions of the AR and record available with the Commission. I have observed that Mr. Shehzad Ahsan and Mr. Muhammad Arif were appointed as independent director, when their names were not registered in PICG databank of Independent Directors and the same was acknowledged by the AR. Subsequently the compliance was partially made through registration of Mr. Shehzad Ahsan in databank of PICG and evidence thereof has been provided, however Mr. Muhammad Arif is still not registered with the databank of PICG.

9. Section 166(1) of the Act requires the companies to select and appoint an independent director from the data bank maintained by the PICG once the company has exercised due diligence prior to selecting a person from the aforesaid data bank. In view of afore-referred provision, the Company is obligated to appoint independent directors selected from the databank of individuals maintained by the PICG.

10. In view of the aforesaid facts, it is evident that the Company has contravened the provisions of sub-section (1) of Section 166 of the Act by appointing the afore-referred independent directors not enrolled in the databank maintained by the PICG, hence the non-compliance at relevant point in time is established and the same is also admitted by the Respondent. I, therefore, in exercise of the powers conferred under Section 169 of the Act, hereby impose a penalty of **Rupees fifty thousand (Rs. 50,000/-)** on the Respondent.

11. The aforesaid penalty must be deposited in the designated bank account maintained with MCB Bank Limited or United Bank Limited in the name of the Securities and Exchange Commission of Pakistan within thirty days from the receipt of this order and furnish receipted bank vouchers to the Commission. In case of non-deposit of the penalties, proceedings for recovery of the fines as arrears of land revenue in terms of Section 485 of the Act will be initiated.



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12. Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties in respect of any default, omission, violation of the Act.

(Shahzad Afzal Khan)  
Director/ HOD  
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**Announced:**

Dated: September 14, 2023  
Islamabad