



RAMA UNIVERSITY

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FACULTY OF COMMERCE & MANAGEMENT

COURSE: BBA-DM; B.Com 6th SEMESTER

SUBJECT: SECRETARIAL PRACTICES

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LECTURE: 1

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Lecture-1



Unit I

Meaning of Company Secretary

The term 'secretary' is derived from the Latin word 'secretarius', the meaning of which is 'a confidential officer.' Secretary is one to whom secret matters are entrusted and he has to maintain secrecy of the works he deals with. In earlier times, a secretary was entrusted only to conduct correspondence for kings and other high dignitaries.

Now in modern times, the duties and functions of company secretary have become very wide and varied as compared to the ancient concept. Now a day, company secretary is one of the most important persons who perform some specified duties in the company from of business. The overall functions of a company can be of two types; management of the business and secretarial work. The latter includes maintenance of books and registers required by the company's Act, issue of share certificates, certification of shares, recording of transfer of shares, preparing agenda, issuing notice of meetings, arranging and attending meetings, drafting the minutes, sending returns to the registrar etc.

This definition reveals the following three features of a company secretary.

- Only an individual may be appointed as a company secretary. A firm or a body corporate cannot be appointed as a company secretary.
- The company secretary should possess the requisite qualifications.
- The duties of company secretary are ministerial and administrative in nature. They are not managers.

Company Secretary: Definition, Qualifications and Functions

Definition of a Company Secretary:

A Company Secretary means “**a person who is a member of the Institute of Company Secretaries of India**”. [Sec. 2(i) (c) of the Company Secretaries Act, 1980],

According to Section 2(45) of the Companies Act, 1956, “Secretary means any individual possessing the prescribed qualifications, appointed to perform the duties which may be performed by a secretary under this Act and any other ministerial or administrative duties”.

Qualifications of the Secretary:

Since the amendment of the Companies Act in 1994, only a person having prescribed qualifications can be appointed secretary of a company. Apart from the statutory qualifications,

he should also have other qualifications as may be necessary to conduct the affairs of the company.

Statutory Qualifications:

According to Section 2(45) of the Companies Act 1956, as amended in 1974, a Company Secretary must possess the qualifications prescribed by the Central Govt. from time to time.

The qualifications as prescribed by the Companies (Secretary's Qualifications) Rules 1975, for the Secretary of a Company are:

(a) In case of a company having a paid-up share capital of Rs. 50 lakhs or more, the Secretary must be a member of the Institute of Company Secretaries of India incorporated under the Companies Act, 1956, and licensed under Sec. 25 of that Act. A person who is a member of the Institute of Chartered Secretaries of London shall also be eligible for appointment as Secretary of such a company.

(b) In the case of any other company, one or more of the following qualifications shall have to be possessed by the Secretary:

(i) Qualifications specified in clause (a) above;

(ii) A degree in law granted by any university.

(iii) Membership of the Institute of Chartered Accountants of India.

(iv) Membership of the Institute of Cost and Works Accountants of India.

(v) A post-graduate degree or diploma in Management granted by any university or the Indian Institute of Management.

(vi) A post-graduate degree in Commerce granted by any university.

(vii) A diploma in Company Law granted by any Indian Law Institute.

Other Qualifications:

In order to be a Company Secretary, statutory qualifications are not enough.

A Company Secretary should also possess the following special qualifications:

1. Knowledge of Company Law:

The Secretary must know the detailed provisions of the Companies Act and its implications. He

must have a knowledge of the rules of meetings.

2. Knowledge of Mercantile Law:

Most of the companies carry on their business as mercantile firms and have to act according to different provisions of Mercantile Law including the Contract Act, Sale of Goods Act, Negotiable Instruments Act, MRTP Act, Insurance Act etc.

The company also faces problems of labour, trademarks, patents, copyrights and so on. Therefore, the Secretary must have a sound knowledge of Labour Laws, Factories Act, ESI Act, Mercantile Laws and Patent, Copyright and Trade Mark Laws.

3. Knowledge of Economics:

In order to handle economic problems of the company, the Secretary should have a sound knowledge of Economics—theoretical and practical—general money market, capital market and financial institutions.

4. General Knowledge:

The Secretary must have a sound general knowledge. He must have thorough acquaintance with social, political and economic conditions of the country.

5. The Secretary must be smart, unbiased, and must have high IQ, presence of mind and amiable personality.

Appointment:

The First Secretary of a company is generally appointed by promoters and his name may be mentioned in the Articles of Association. If the First Secretary is appointed subsequently, it has to be done by the Board of Directors by passing a resolution in their meeting. The terms and conditions of appointment should be mentioned in the resolution of the Board meeting. A Director may also be appointed as a Secretary.

Dismissal:

The Secretary is a servant of the company and his dismissal is governed by the normal law applicable to master and servant. The Secretary can ordinarily be dismissed by the Board of Directors.

He may be removed in the following manner:

- (i) By giving a written notice;
- (ii) On the expiry of the tenure of service;
- (iii) In such manner as prescribed by the Articles of Association of the company.

The Secretary may also be removed without notice for:

- i. Willful misconduct;
- ii. Willful disobedience to order of the manner;
- iii. Negligence of duty;
- iv. Permanent disability; and
- v. Moral turpitude.