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UNIVERSITY

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**FACULTY OF COMMERCE &
MANAGEMENT**

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Lecture-2-3



Unit I

Functions and Duties of the Company Secretary:

Functions of the Company Secretary may be discussed under two headings:

- (i) Statutory Functions or Duties and
- (ii) Non-statutory Functions or Duties.

Statutory Functions:

The Companies Act, 1956, imposes certain duties upon the Secretary.

The Companies Act has specified the following duties of the Company Secretary:

1. Signing of Annual Returns,
2. Registration of Allotment Returns,
3. Issuing Share Certificates,
4. Convening Annual General Meeting,
5. Maintaining Share Registers,
6. Maintaining Register of Directors.

The Indian Stamp Act also requires a Company Secretary to ensure that proper stamps are affixed on the company's documents. The Indian Sales Tax Act also provides that the Secretary of the Company should arrange for registration of the company, if necessary, and submit the tax returns.

Under the Income Tax law, the Company Secretary has to deduct income tax from the salaries of the staff and dividend payable at source and to submit income tax returns to the authorities in accordance with the law.

Under the MRTP Act, FERA (now FEMA) and Essential Commodities Act, he is entrusted with certain obligations under the Payment of Wages Act, Bonus Act, Provident Fund Act and Gratuity Act. He is personally liable for the violation of provisions of the respective Acts.

Non-statutory Functions:

The non-statutory functions of the Company Secretary vary with the nature and size of the company. He has got certain non-statutory functions in relation to Directors, shareholders and office and staff.

1. Functions in Relation to Directors:

Company secretary is an employee of the Company and acts as the mouthpiece of the Board of Directors. From the legal standpoint the Secretary is an employee of the company but actually his position is not like a servant because he is a highly responsible and honorable person, often more qualified and knowledgeable than the Directors.

The Secretary helps the Directors in framing policies and arriving at decisions. It is his duty to implement these decisions. He helps the Chairman of the Board in conducting Board meetings.

The functions of the Secretary in relation to the Directors are:

- (i) He is to ensure that the actions of the Board of Directors are strictly in accordance with the provisions of the law.
- (ii) He helps the Board of Directors to formulate policies and arrive at decisions.
- (iii) He issues notices and prepares the agenda in consultation with the Chairman for the meeting of Board of Directors.
- (iv) He records the attendance of the Directors.
- (v) He prepares the Minutes of the Board meeting.
- (vi) He issues the orders and instructions of the Board to the members of the staff.
- (vii) He arranges for the payment of Directors' fees.
- (viii) He maintains all important correspondence, files, documents and records of Board office.

2. Functions in Relation to Shareholders:

A Company Secretary is the medium of communication between the Directors and the shareholders, debenture holders, and creditors. A secretary handles all confidential matters. By virtue of his position he knows the percentage of dividend to be declared beforehand. He should not leak out any confidential matter like the above before they are officially notified to the public.

A company is created for making profit. Every shareholder can reasonably expect a return on his investment in the company's shares. The return on the shares is given to the shareholders in the form of dividend. The Secretary of a company has to take full responsibility for the payment of dividend to the shareholders within 42 days from the date of Annual General Meeting.

After the dividend is declared at the Annual General Meeting, Secretary will have to prepare dividend warrants and send them to the shareholders.

The functions of the Secretary in relation to shareholders may be summed up as:

- (i) He has to issue share certificates, share warrants and debentures.

- (ii) He issues allotment letters and letters of regret.
- (iii) He issues call letters.
- (iv) He has to issue notices and agenda of the Statutory Meeting, Annual General Meeting and Extraordinary General Meeting of shareholders.
- (v) He has to maintain the Minute Book of shareholders' meeting.
- (vi) He has to maintain the Share Register and Share Transfer Register.
- (vii) He maintains the proceedings of all meetings.

3. Functions in Relation to Office and Staff:

The Secretary is the executive head of the company and he is responsible for smooth functioning of the office work. He exercises an overall supervision of all clerical activities in the office. Legal and financial matters are under his direct control. The Secretary is the kingpin of the whole corporate machinery. It is the duty of the Secretary to see that all the departments are properly coordinated, controlled and supervised.

4. Functions in Relation to Meetings:

The Secretary of the company has to deal with all kinds of meetings of the company.

There are different types of company meetings—Statutory Meeting, Annual General Meeting, Board Meeting, Extraordinary General Meeting, meeting of debenture holders etc.

In all these cases, the Secretary has to arrange for everything in connection with the meeting.

The functions of the Secretary can be discussed under three stages:

- (i) Functions before the meeting.
- (ii) Functions at the meeting.
- (iii) Functions after the meeting.

Functions before the Meeting:

The functions of the Secretary before the meeting are:

- (i) To fix up the date of the meeting in consultation with the Chairman;
- (ii) To prepare the agenda of the meeting;
- (iii) To issue notices to the members entitled to attend the meeting;
- (iv) To arrange for convening the meeting;
- (v) To append the proxy forms;
- (vi) To send the notice of holding the Annual General Meeting to the auditors of the company;
- (vii) To draft and circulate the Director's Report, Statutory Report and Chairman's speech.

Functions at the Meeting:

The functions of the Secretary at the meeting are:

- (i) To record the attendance in the Attendance Register;
- (ii) To distribute relevant papers and documents amongst the members;
- (iii) To read out the notice of the meeting and the minutes of the last meeting;
- (iv) To read out the Audit Report, the Director's Report or any other report in the meeting;
- (v) To help the Chairman in conducting the meeting smoothly;
- (vi) To take notes of the proceedings of the meeting;
- (vii) To draft the resolutions. Functions after the Meeting

The functions of the Secretary do not end with the meeting. As soon as the meeting is over, he should draft the proceedings of the meeting and get them signed by the Chairman. He should arrange to file the Statutory Report, Annual Returns along with Director's Report and Audit Report (in case of AGM) with the Registrar of Companies.

If any special resolution is adopted, a copy of such resolution should be filed with the Registrar of Companies. He has to execute decisions of the meeting. He has to send press reports for publication. The Secretary should also make all arrangements for voting and, if necessary, should conduct the poll peacefully and efficiently.

Lastly, he has to arrange for refreshments for members immediately after the meeting.

Functions of the Company Secretary as:

Executive Officer:

The Company Secretary is the executive head of the office. He has to carry out official functions and see that the activities of the company are in accordance with the provisions of the Companies Act. He is responsible for cash, accounts, records, share and publicity affairs. The Secretary has to supervise, coordinate and manage the activities of the office.

As the Chief Executive Officer, the Secretary's principal functions are:

- (i) Supervising, controlling and coordinating the activities of the office.
- (ii) He has to look after all staff matters. He handles recruitment, induction, promotion, transfer, remuneration of office staff.
- (iii) He has to arrange and attend meetings, conferences and seminars.
- (iv) He has to handle correspondence, records, routine work, incoming and outgoing mails, attend callers, arrange interviews etc.

- (v) He issues orders, circulars, directives to the departmental heads.
- (vi) He has to carry out the decisions of the Board of Directors.
- (vii) He has to negotiate with third parties on behalf of the company.

Functions of the Company Secretary as a Liaison Officer

The Company Secretary has to act as a Liaison Officer between the Board of Directors and the government and the public. He is the linkman between the top management and the staff and through him the decision of the management is conveyed to the staff. The suggestions and grievances of the employees are conveyed by the Secretary to the management. The Secretary also acts as the Public Relations Officer.

As a Liaison Officer the Company Secretary has to:

- (i) Maintain cordial relations between the management and staff.
- (ii) Convey all decisions, policies, orders and directions of the Board to the members of the staff, shareholders and the public.
- (iii) Inform the shareholders about the necessary rules for transfer of shares.
- (iv) Negotiate with the third parties for the settlement of contracts and bargains.
- (v) The management inform of any discontentment among the members of the staff.

Functions of the Company Secretary as Advisor to the Management:

The Company Secretary is an advisor to the management. In most cases, the authorities depend largely on the advice of the Secretary. His suggestions and opinions are valuable to the management. The exact nature and the extent of the advice given by the Secretary will vary according to the nature, and size of the organisation.

The advisory functions of the Company Secretary are very valuable to their employers. The Secretary advises the Board of Directors to take decisions. The Directors know little about the legal, procedural and constitutional aspects of company matters. A qualified Company Secretary, well-conversant with all the aspects of company management, is in a better position to give right advice to the Board of Directors.