



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

## Adjudication Department- I

### Adjudication Division

| ORDER                                |                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Name of Company:                     | M/s Dewan Textile Mills Limited                                                                                                                                                                                                                                                                                                    |
| Show Cause Notice No. & Date:        | CSD/ARN/202/2015-980 dated March 05, 2025                                                                                                                                                                                                                                                                                          |
| Name(s) of Respondent(s):            | (i) M/s Dewan Textile Mills Limited, the Company;<br>(ii) Mr. Ishtiaq Ahmed, Director;<br>(iii) Syed Maqbool Ali, Director;<br>(iv) Syed Asim Abid Ali, Director;<br>(v) Mr. Abdul Basit, Director;<br>(vi) Mr. Ghazanfar Babar Siddiqui, Director;<br>(vii) Mr. Aziz-ul-Haque, Director; and<br>(viii) Mrs. Nida Jamil, Director. |
| Date(s) of Hearing(s) Opportunities: | (i) March 26, 2025;<br>(ii) April 07, 2025; and<br>(iii) April 14, 2025                                                                                                                                                                                                                                                            |
| Provision of law involved:           | Section 166 of the Companies Act, 2017 (the Act) and Regulation 6 of the CCG Regulations read with Section 169, Section 512 of the Act and Regulation 37 of the CCG Regulations.                                                                                                                                                   |
| Date of Order:                       | April 23, 2025                                                                                                                                                                                                                                                                                                                     |

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the “Commission”) through Show Cause Notice No. CSD/ARN/202/2015-980 dated March 05, 2025 (“SCN”) issued to M/s. Dewan Textile Mills Limited (the “Company”) and its Board of Directors (the “BOD”), hereinafter collectively referred to as the “Respondents”, under Sections 166(1), 166(2)(g) and 169 of the Companies Act, 2017 (the “Act”) read with Section 512 thereof, and Regulation 6 of the of the Listed Companies (Code of Corporate Governance) Regulation, 2019 (the “CCG Regulations”) read with Regulation 37 thereof, for failure to comply with the provisions of Section 166 of the Act and Regulations 6 of the CCG Regulations.

2. The provisions of sub-section (1) of Section 166 of the Act requires that 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 any institute, body or association, as may be notified by the Commission. Accordingly, the Commission vide S.R.O. 73(I)/2018 dated January 25, 2018 has notified Pakistan Institute of Corporate Governance (the “PICG”) as the institute for maintenance of the data bank. Furthermore, the proviso to sub-section (1) of Section 166 of the Act provides that the company shall exercise due diligence before selecting a person from the PICG’s data bank as an independent director.

3. Moreover, sub-section (2) of Section 166 of the Act provides that an independent director means a director who is not connected or does not have any other relationship, whether pecuniary or otherwise, with the company, its associated companies, subsidiaries, holding company or directors; and he can be reasonably perceived as being able to exercise independent business judgment without being subservient to any form of conflict of interest. Sub clause (g) of sub-section (2) of Section 166 of the Act further provides that no director shall be considered independent if he has served on the board for more than three consecutive terms from the date of his first appointment.

4. Furthermore, sub regulation (1) of Regulation 6 of the CCG Regulations provides that it is **mandatory** for each listed company to have at least two or one-third members of the Board, whichever is higher, as

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independent directors and in case a listed company prefers to not to round up the fractions in case of one-third it shall explain the same in the compliance report.

5. The non-compliance of the aforementioned provisions of Section 166 of the Act attracts a penal action under Section 169 read with Section 479 thereof as whoever contravenes or fails to comply with any of the provisions of Section 166 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.

6. Moreover, Regulation 37 of the CCG Regulations provides that whoever fails or refuses to comply with, or contravenes Regulation 6, 27 and 36 of the CCG Regulations, shall be punishable with penalty as provided under sub-section (2) of Section 512 of the Act, which provides that any regulation made under sub-section (1) may provide that a contravention thereof shall be punishable with a penalty which may extend to five million rupees and where the contravention is a continuing one, with a further penalty which may extend to one hundred thousand rupees for every day after the first during which such contravention continues.

7. Brief facts of the case are that as per records of the Commission, election of the directors to elect seven directors on the Board of the Company were held in the Extra Ordinary General Meeting (EOGM) dated January 27, 2025; wherein the following directors were elected:

|    |                                        |
|----|----------------------------------------|
| 1. | Mr. Ishtiaq Ahmed, Director            |
| 2. | Syed Maqbool Ali, Director             |
| 3. | Syed Asim Abid Ali, Director           |
| 4. | Mr. Abdul Basit, Director              |
| 5. | Mr. Ghazanfar Babar Siddiqui, Director |
| 6. | Mr. Aziz-ul-Haque, Director            |
| 7. | Mrs. Nida Jamil, Director              |

8. In light of the above stated, it was observed that Mr. Aziz-ul-Haque, who was appointed as the Independent Director, did not fulfill the criteria of independent director as clearly provided in para (g) of sub-section (2) of section 166 of the Act on account of the fact that he served on the board for more than three consecutive terms as tabulated below:

|    |                                            |
|----|--------------------------------------------|
|    | Date of appointment in General Meeting (s) |
| 1. | January 31, 2013                           |
| 2. | January 29, 2016                           |
| 3. | January 28, 2019                           |
| 4. | February 03, 2022                          |
| 5. | January 27, 2025                           |

9. Furthermore, the Company also failed to appoint a minimum of one-third or two, whichever is higher, independent directors on its board as per requirement of Regulation 6(1) of the CCG Regulations; where the subject non-compliance was further aggravated in light of the fact that Mr. Aziz-ul-Haq also failed to meet the eligibility criteria for such appointment.

10. The Commission vide email dated February 11, 2025 advised the Company to explain compliance with Section 166 of the Act and Regulation 6 of the CCG Regulations. The Company vide its email dated February 14, 2025 *inter alia* submitted that they are unable to find suitable individual from the data bank to serve as independent director as most of the individuals are reluctant to join the Company due to depressed financial situation of the Company/Litigation issues. It is pertinent to observe that the Company also submitted that they have only one independent director, i.e. Mr. Aziz-ul-Haque; whereas, even Mr. Aziz-ul-Haque failed to meet the eligibility criteria as such.

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11. Taking cognizance of the alleged violation of law, SCN was served upon the Respondents to show the cause in writing as to why a penal action may not be taken against them for non-compliance of the requirements of the Act and the mandatory provisions of the CCG Regulations but the Respondents failed to furnish a response within the timeline. In order to provide an opportunity of personal representation and to meet the ends of justice, hearing in the matter was fixed for March 26, 2025, where the Company vide letter dated March 19, 2025 sought adjournment and subsequently hearings were fixed for April 07, 2025 and April 14, 2025 respectively. The Respondents, however did not attend the three opportunities of hearings provided to them and submitted a written response as their full and final submission in the instant matter while confirming to the Authorized/Adjudicating Officer of no further requirements of hearing via a telephone call.

12. The Company through letter dated April 08, 2025, *inter-alia*, submitted that:

- (i) The Board had finalized seven candidates and amongst them, Mr. Aziz-ul-Haq was nominated as an Independent Director.
- (ii) The Company has made consistent efforts to approach individuals in the data bank maintained by Pakistan Institute of Corporate Governance, however, the majority of those contacted declined the offer, and that they are still awaiting responses from others.
- (iii) The depressed financial condition of the Company, ongoing litigation with lenders and the Company's negative eCIB status in the State Bank records have been key deterrents for qualified individuals for considering the position of Independent Director in the Company.

(iv) **Further, requested to consider this reply as response to the opportunity of being heard.**

13. I have reviewed the facts of the case and also considered the written submissions made by the Respondents through their letter dated April 08, 2025. At this juncture, it is important to discuss the following legal and factual elements:

- (i) The significance of selecting independent directors under sub-section (1) and (2) of Section 166 of the Act and maintaining the minimum number of Independent Directors in line with Regulation 6 of the CCG Regulations is paramount in upholding the standards of corporate governance and regulatory compliance. This requirement ensures that independent directors are not only qualified and experienced but also are duly vetted for their eligibility and independence. By adhering to this mandate, companies demonstrate a commitment to transparency and accountability, which are critical for maintaining stakeholder trust and confidence. In the instant matter, the Company not only failed to appoint the required minimum number of Independent directors but also preferred to appoint such person as independent director who was ineligible for such appointment.
- (ii) It is also important to underscore that under Section 166(2) of the Act an independent director must be free from any direct or indirect pecuniary or other relationship with the company, its associated undertakings, or its directors, which may give rise to a situation of conflict of interest. The essence of this provision lies in ensuring that such a director can be reasonably perceived as exercising independent business judgment, without being influenced or subordinated by any affiliation or interest. Any deviation from this standard undermines the spirit of corporate governance and the statutory requirement of independence. Therefore, by appointing an independent director who was not eligible, the spirit of the provisions of Section 166(2) was defeated.
- (iii) It is further observed that the primary objective of Section 166(2)(g) of the Act is to ensure that an individual appointed as an independent director of a company should be able to exercise independent business judgment without being acquiescent to any form of conflict of interest. To meet this objective, the provisions of Section 166(2)(g) of the Act specifically require that his prolonged consecutive terms as director should not potentially compromise his independent business judgment. The principle of statutory interpretation is also affirmed in PLD 1992 SC 602, which resolves that statutes must be

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interpreted in light of their objectives.

14. In view of the above, the aforesaid contravention with the requirements of Section 166 of the Act and Regulation 6 of the CCG Regulations have been established beyond doubt and the same have also been admitted by the Respondents which attract penal actions in terms of Section 169 of the Act along with Regulation 37 of the CCG Regulations read with Section 512(2) of the Act. I, therefore, in exercise of the powers conferred upon me under Section 169 read with Section 479 and Section 512(2) of the Act, read with SRO 1545(I)/2019 dated December 06, 2019, hereby impose an aggregate penalty of **Rs. 100,000/- (Pak Rupees One Hundred Thousand Only)** on the Respondents in the following manner:

| S. No. | Name of Respondents                      | Penalty Amount for<br>contravention of<br>provisions of Section<br>166 of the Act | Penalty Amount for<br>contravention of<br>Regulation 6 of the CCG<br>Regulations |
|--------|------------------------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
|        |                                          | Rs                                                                                | Rs                                                                               |
| 1.     | Dewan Textile Mills Limited, the Company | 15,000                                                                            | 15,000                                                                           |
| 2.     | Mr. Ishtiaq Ahmed, Director              | 5,000                                                                             | 5,000                                                                            |
| 3.     | Syed Maqbool Ali, Director               | 5,000                                                                             | 5,000                                                                            |
| 4.     | Syed Asim Abid Ali, Director             | 5,000                                                                             | 5,000                                                                            |
| 5.     | Mr. Abdul Basit, Director                | 5,000                                                                             | 5,000                                                                            |
| 6.     | Mr. Ghazanfar Babar Siddiqui, Director   | 5,000                                                                             | 5,000                                                                            |
| 7.     | Mr. Aziz-ul-Haque, Director              | 5,000                                                                             | 5,000                                                                            |
| 8.     | Mrs. Nida Jamil, Director                | 5,000                                                                             | 5,000                                                                            |
|        | <b>Total Amount</b>                      | <b>50,000</b>                                                                     | <b>50,000</b>                                                                    |

15. The Respondents, in exercise of powers conferred under Section 475 of the Act read with S.R.O 1545(I)/2019 dated December 06, 2019, are also directed to ensure comprehensive compliance in the instant matter in an immediate manner but not later than sixty (60) days from the date of this order. The Respondents are further directed to report compliance of this direction to the Commission within the stipulated time without fail. The Respondents are also advised to remain careful in the future and ensure meticulous compliance with the provisions of law effectively and efficiently.

16. The Respondents are, hereby, further directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Commission with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and to furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section 485 of the Act will be initiated for recovery of the fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997.

  
Sohail Qadri  
Director/ HOD  
Adjudication Department-I

**Announced:**

Dated: April 23, 2025

Islamabad