

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 568/RC/2014**

**Coram:**

**Shri Gireesh B. Pradhan, Chairperson  
Shri M. Deena Dayalan, Member  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member**

**Date of Order : 20.2.2015**

**In the matter of:**

Approval of panel for appointment as Independent Directors on the Board of Indian Energy Exchange.

**And In the matter of:**

Indian energy Exchange Limited  
100 A/1 Ground Floor, Capital Court  
Olof palme Marg, Munirka  
New Delhi-110 067

**.....Petitioner**

**Order**

The petitioner, Indian Energy Exchange Limited (IEX) has filed the instant petition on 24.12.2014 seeking approval of the Commission for inclusion of the names of Shri Dinesh Kumar Mehrotra and Shri Vallabh Roopchand Bhansali in the panel of Independent Directors for appointment on the Board of IEX. The petitioner has also filed the brief profile, declaration under Section 149 (7) read with 149 (6) of the Companies Act, 2013, details in "Form MBP-1" of the Companies Act, 2013 and affidavits of Shri Dinesh Kumar Mehrotra and Shri Vallabh Roopchand Bhansali in terms of Regulation 22(ii) of the Power Market Regulations.



2. Regulation 22(ii) of the Power Market Regulations which deals with the Independent Directors to be appointed in the Power Exchange, is extracted as under:-

"(ii) Independent Directors – At least one third of the members of the Board or a minimum of two directors, whichever is higher, shall be independent directors selected from a panel constituted by the Power Exchange and approved by the Commission out of which one person will have professional qualification and experience in finance. The panel shall be constituted of persons of repute and integrity from academics, professionals, industry representatives, public figures none of whom should have any interest in any Member of Power Exchange and any fiduciary relationship with any shareholder of Power Exchange."

3. The Commission, in its order dated 7.8.2013 in Petition No. 113/2011, while approving the panel of Independent Directors discussed the requirements for appointment as Independent Directors in the said order and they are as follows:-

"7. The term 'Independent Director' has not been defined in the Power Market Regulations or Companies Act, 1956. The Judicial Dictionary defines Independent Director to mean a non-executive Director who apart from receiving Director's remuneration, do not have any material/pecuniary relationship or transaction with the company, its promoters, its directors, its senior management or its holding company, its subordinates or associates which in the judgement of the Board may affect the independence of the judgement of the Director. According to Clause 49 of the Listing agreement, the definition of the term 'Independent Director' would mean a non-executive director who:

- (a) Does not have a pecuniary relationship with the company, its directors, its promoters, senior management or affiliate companies;
- (b) Is not related to the promoters or senior management;
- (c) Is not a partner or executive of the auditors/lawyers/consultants of the company for the last three years;
- (d) Is not a supplier, service provider or customer of the company;
- (e) Does not have more than 2% of the shares of the company.

8. Further Regulation 22(ii) of the Power Market Regulations provides that none of the persons in the panel should have any interest in any Member of the Power Exchange and have fiduciary relationship with any shareholders of the Power Exchange. Fiduciary relationship has not been defined in the Power Market Regulations. According to Law Dictionary, fiduciary relationship exists when one person places complete confidence in another person in regard to any particular transaction or general affairs or business. In the

context of the Power Market Regulations, none of the persons included in the panel of Independent Directors should have any interest in any member of the exchange or be involved in the general affairs or business of any shareholder of the exchange."

4. IEX was directed, vide letter dated 2.1.2015, to submit the following:-
  - (a) The strength of the Board and the number of Independent Directors presently on its Board;
  - (b) The number of persons presently on the panel of Independent Directors and number of Independent Directors that IEX has to appoint in conformity with the Power Market Regulations; and
  - (c) The nature of relationship of MCX with IEX.
  
5. In response, the petitioner vide affidavit dated 6.1.2015 has submitted as follows:-
  - (a) Till 30.9.2014, Board of IEX comprised of nine Directors including three Independent Directors. With the resignation of Shri Venkat Chary, the strength of its Board has been reduced to eight out of which two are Independent Directors;
  - (b) As per the Power Market Regulations, one third of the members of Board of IEX have to be Independent Directors. Therefore, a total of three ( $8/3=3$ ) Independent Directors are required to be appointed to the Board of IEX. As per the Sale Purchase Agreement entered into between Financial Technologies India Ltd. (FTIL) and the investors for divestment of the shareholding of FTIL in IEX, two more Directors are expected to join the Board of Directors in near future. Accordingly, four Independent

Directors (11/3=4) are required to be appointed on the Board of IEX. At present, there are two Independent Directors on its Board and therefore two more Independent Directors are required to be appointed;

(c) Shri Anil Singhvi and Shri Som Mittal were included in the panel of Independent Directors of IEX as per the approval accorded vide Commission's order dated 27.10.2014 in Petition No.316/RC/2013. From the FTIL's website, it is noticed that Shri Anil Singhvi has joined the FTIL's Board as Non-Independent, Non-Executive Director; and

(d) FTIL has already divested its entire shareholding in MCX. Therefore, there is no relationship between IEX and MCX. Shri D.K. Mehrotra has been appointed by Forward Market Commission (FMC) on the Board of MCX as its Nominee Independent Director.

6. We have considered the submission of the petitioner. Considering the strength of the Board of Directors of IEX as 11, there will be requirement for appointment of 4 Independent Directors. At present two Independent Directors are in position. The panel needs to be drawn for 2 Independent Directors. The Commission in its order dated 27.10.2014 had approved the name of two persons as Independent Directors. As per the affidavit of the petitioner, Shri Anil Singhvi has joined FTIL now as non-Independent and non-Executive Director. Since, we have taken a decision that FTIL shall have

no representation in the Board of IEX and have also directed FTIL to divest its entire shareholding, it would not be appropriate to allow appointment of Shri Anil Singhvi as Independent Director in IEX when he is holding the post of non-Independent and non-Executive Director in FTIL.

7. The petitioner has now proposed two names for inclusion in the panel of Independent Directors, namely, Shri Dinesh Kumar Mehrotra and Shri Vallabh Roopchand Bhansali. Their profiles are as follows:-

(a) Shri Dinesh Kumar Mehrotra is an Honours Graduate in Science and has worked in different capacities in Life Insurance Corporation of India (LIC) both within the country and abroad. He was also Chairman of LIC. He has served as the Chairman of the Board of LIC Housing Finance Ltd. and LIC Pension fund Ltd. He was also on the Board of ACC Limited, ITC Limited and IL&FS Limited. Presently, he is a Board Member of Tata Steel Limited, MCX Limited and Computer Age Management Services Private Limited.

(b) Shri Vallabh Roopchand Bhansali is a graduate in law and a Chartered Accountant. He was the co-founder of Enam Securities Pvt. Ltd., which under his leadership was involved in some of the most innovative and pioneering Capital Market and advisory transactions in the country. He was also a Trustee of the Bombay Stock Exchange. He is the Member of SEBI's Primary Market Advisory Committee. He is also Board Member of companies like Foundation for Liberal and Management Education (FLAME), Diamond India Limited, Arvind

Limited, Sarvatra Technologies Private Limited and Desh Apnayan Sahayog Foundation.

8. The petitioner has also placed on record the affidavits submitted by Shri Dinesh Kumar Mehrotra dated 6.12.2014 and Shri Vallabh Roopchand Bhansali dated 11.12.2014. Both Shri Dinesh Kumar Mehrotra and Shri Vallabh Roopchand Bhansali have stated that they do not have any interest in any member and fiduciary relationship with any of the shareholders of IEX. They have further stated that they do not suffer from any of the disqualifications prescribed under Power Market Regulations for being eligible for appointment or continuation as Independent Director in the Power Exchange.

9. The proposal for empanelment of Shri Dinesh Kumar Mehrotra and Shri Vallabh Roopchand Bhansali for appointment as Independent Directors has been considered in the light of the Power Market Regulations and the requirements laid down by the Commission in its order dated 7.8.2013 in Petition No.113/2011. After going through the profiles of Shri Dinesh Kumar Mehrotra and Shri Vallabh Roopchand Bhansali and after being satisfied that they do not have any fiduciary relationship with any of the existing of shareholders of IEX or any interest in any member of IEX, we are of the view that both persons fulfil the requirement for inclusion in the panel for appointment as Independent Directors in IEX. Accordingly, we accord our approval for inclusion of both of them in the panel for appointment of

Independent Directors in terms of Regulation 22(iii) of the Power Market Regulations.

10. Petition No.568/RC/2014 is disposed of in terms of the above.

sd/-                      sd/-                      sd/-                      sd/-  
**(A.S. Bakshi) (A. K. Singhal) (M. Deena Dayalan) (Gireesh B. Pradhan)**  
**Member                      Member                      Member                      Chairperson**