

Rights of Shareholders Under the Company Law

1) Definition of Shareholders

1.1 The term shareholder is nowhere defined in the companies act, 2013, but an individual can become a member of company by subscribing MOA and AOA and get his name registered in the company registered or documents.

1.2 A shareholder is considered as an owner of company having full control over the decision making process to a company and a holder of share. By virtue his effective position, he enjoys certain rights, especially right to vote and participation in general meeting of company.

2) Types of Shareholders

As per section 43 of the company Act, 2013 there are two types of shares:

a) Equity shares: The equity shareholders have full voting right along with right to participate in decision making process. In addition to this, they have right to get profit in the form of dividend at a fluctuating rate.

b) Preferential shares: The holder of preferential shares don't have full voting right, but right to get profit on priority basis over equity shareholders at fixed rate. They are also known as Minority shareholders.

3) Modes of becoming Shareholder in a Company

- ★ By **subscribing Memorandum of Association** to a company during incorporation process
In the case of **U. P. Oil Mill Co. Ltd Vs Jamma Prasad 1993** the court clarified that the subscribers shall become member to the company merely by fact of subscription.
- ★ By **obtaining shares from the existing shareholders** by way of gift or sale or transfer
- ★ By **making application and allotment of shares**
The court in **Sree Ayyanar spinning and winning Mills LTD. 1973** held that there can't be an oral application and written application should be submitted by the person intends to become member to a company.

4) Rights of Shareholders

Under the company law a member of a company has following rights as a shareholder or owner to a company:

- ★ Right to **vote in the Board meeting.**

This was held in **Surya Kant Gupta v. Rajaram Corn Product (Punjab) P. Ltd., (2008)** that where the preference shareholders were not paid dividend since the incorporation of the company, the preference shareholders became entitled under section 87 of the 1956 Act to exercise voting rights on every resolutions placed before the company at any general meeting.

- ★ Right to **call and conduct the meeting** of BOD.
- ★ Right to **get profit** in the form of dividend.
- ★ Right to **initiate Legal action against the director** if any act done by him is against or prejudicial to interest of shareholders or company.
- ★ Right to **get copy of financial statement** of the company
- ★ Right to **appoint company auditor**
- ★ Right to **get information regarding dissolution of company**, if winding up process has been initiated against the company (voluntary or compulsory)
- ★ Right to **approve conversion of the company**, if any conversion process is started.
- ★ Right to **transfer his shares**
- ★ Right to **inspect registers** to be maintained by the Key Managerial officials, as per section 171 of the company Act, 2013

In the matter of **Phillips Carbon Black Limited & Ors. V. Anil Kumar Poddar & Anr. 2010** the Hon'ble Calcutta High court held that if any document to be inspected by shareholder is available in public domain(at MCA portal) then it is deemed that such filing of application is frivolous in nature and not filed with bona-fide intention. The CLB has power to pass such other considering facts of the matter in hand.