

Integrating ESG into Directors' Fiduciary Duties under Indian Company Law

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ABSTRACT

The growing importance of Environmental, Social, and Governance (ESG) considerations has significantly transformed corporate governance frameworks across the world. Investors, regulators, consumers, and other stakeholders increasingly expect companies to operate in a manner that promotes sustainability, social responsibility, ethical conduct, and long-term value creation. In India, the evolving regulatory landscape, including the Companies Act, 2013, the Securities and Exchange Board of India (SEBI) regulations, and the Business Responsibility and Sustainability Reporting (BRSR) framework, reflects a growing emphasis on ESG compliance and corporate accountability. However, despite these developments, uncertainty continues to exist regarding the extent to which directors' fiduciary duties encompass ESG considerations under Indian company law. This study critically examines the relationship between ESG principles and directors' fiduciary duties within the Indian corporate governance framework. It analyses the statutory duties of directors under Section 166 of the Companies Act, 2013, relevant judicial interpretations, corporate governance norms, and emerging international practices relating to sustainability-oriented decision-making. The research evaluates whether the existing legal framework adequately enables directors to consider environmental protection, social welfare, stakeholder interests, and governance concerns while discharging their fiduciary obligations. The study further explores the challenges associated with integrating ESG factors into corporate decision-making, including regulatory ambiguity, competing stakeholder interests, compliance burdens, and enforcement limitations. It argues that the traditional shareholder-centric approach is gradually evolving towards a broader stakeholder-oriented model that recognises sustainable business practices as an essential component of long-term corporate success. The research concludes by proposing legal and policy reforms aimed at strengthening the integration of ESG considerations into directors' fiduciary responsibilities, thereby promoting responsible corporate governance, sustainable development, and enhanced corporate accountability in India.

Keywords: Environmental, Social and Governance (ESG), Directors' Fiduciary Duties, Corporate Governance, Companies Act, 2013, Sustainable Corporate Responsibility

INTRODUCTION

The concept of Environmental, Social, and Governance (ESG) has emerged as one of the most significant developments in contemporary corporate governance. Traditionally, companies were primarily expected to maximise shareholder wealth and focus on financial performance. However, increasing concerns regarding climate change, environmental degradation, labour rights, human rights violations, corporate scandals, and unethical business practices have transformed expectations from corporate entities. Businesses are now expected to operate responsibly and contribute towards sustainable development while balancing the interests of shareholders, employees, consumers, communities, regulators, and the environment.¹

ESG represents a framework through which corporations evaluate and disclose their performance concerning environmental sustainability, social responsibility, and governance practices. Environmental factors include issues such as carbon emissions, waste management, biodiversity conservation, and climate-related risks. Social factors encompass labour standards, diversity, employee welfare, human rights, and community engagement. Governance factors involve board

¹United Nations Global Compact, "What is ESG?", available at: <https://unglobalcompact.org> (visited on June 5, 2026).

accountability, transparency, ethical conduct, risk management, and regulatory compliance.²The increasing relevance of ESG has led institutional investors, financial institutions, and regulatory authorities across the world to incorporate sustainability considerations into investment and governance decisions.

In India, ESG has gained considerable momentum due to evolving regulatory initiatives and growing stakeholder awareness. The introduction of Business Responsibility and Sustainability Reporting (BRSR) requirements by the Securities and Exchange Board of India (SEBI) reflects a significant shift towards enhanced corporate transparency and sustainability reporting.³ Companies are increasingly expected to disclose information relating to environmental performance, social impact, governance mechanisms, and sustainability strategies. Consequently, directors are required to consider factors extending beyond immediate financial returns and evaluate the long-term implications of corporate decisions.

The emergence of ESG has also altered the traditional understanding of corporate purpose. The conventional shareholder-centric model is gradually being replaced by a broader stakeholder-oriented approach that recognises the interconnected nature of economic, environmental, and social interests. This transformation raises important questions regarding the duties and responsibilities of company directors. As corporate decision-makers, directors play a central role in determining how companies respond to ESG challenges and opportunities. The extent to which directors are legally obligated to consider ESG factors while exercising their powers remains a subject of growing academic, judicial, and regulatory debate.⁴

Directors' Fiduciary Duties under Indian Company Law

Directors occupy a position of trust within a company and are entrusted with the responsibility of managing corporate affairs in the best interests of the company. The concept of fiduciary duty requires directors to act honestly, diligently, and in good faith while exercising their powers. Under Indian company law, directors' duties have been codified under Section 166 of the Companies Act, 2013. The provision requires directors to act in accordance with the company's articles, promote the objects of the company, exercise independent judgment, avoid conflicts of interest, and act in good faith for the benefit of the company, its members, employees, shareholders, community, and the environment.⁵

The inclusion of community and environmental interests within Section 166 represents a notable departure from the traditional shareholder-centred understanding of corporate governance. It suggests that Indian company law recognises broader stakeholder considerations in corporate decision-making. Nevertheless, the practical scope and enforceability of these obligations remain uncertain. The statute does not explicitly define the extent to which directors must prioritise environmental sustainability, social welfare, or governance concerns when making business decisions. Consequently, questions arise regarding whether ESG considerations constitute mandatory legal obligations or merely aspirational governance standards.

Judicial decisions have historically recognised the fiduciary nature of directors' duties. In *Official Liquidator v. P.A. Tendolkar*, the Supreme Court emphasised that directors occupy a position of trust and are expected to act with due care and diligence.⁶ Similarly, in *Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.*, the Court highlighted that directors must act bona fide in the interests of the company and avoid actions motivated by personal benefit.⁷ While these decisions were delivered before the emergence of ESG as a distinct governance framework, they continue to influence the interpretation of directors' obligations under contemporary corporate law.

The increasing importance of sustainability and responsible business conduct has prompted reconsideration of fiduciary duties in several jurisdictions. Courts, regulators, and policymakers are increasingly recognising that long-term corporate success depends upon effective management of environmental, social, and governance risks. This evolving perspective has important implications for the interpretation and application of directors' duties under Indian law.

²CFA Institute, "Environmental, Social and Governance Issues in Investing", available at: <https://www.cfainstitute.org> (visited on June 5, 2026).

³Securities and Exchange Board of India, Business Responsibility and Sustainability Reporting Framework, available at: <https://www.sebi.gov.in> (visited on June 6, 2026).

⁴Organisation for Economic Co-operation and Development (OECD), *Corporate Governance and Sustainability*, available at: <https://www.oecd.org/corporate> (visited on June 6, 2026).

⁵Companies Act, 2013, s. 166, available at: <https://www.indiacode.nic.in> (visited on June 7, 2026).

⁶*Official Liquidator v. P.A. Tendolkar*, AIR 1973 SC 1104.

⁷*Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.*, (1981) 3 SCC 333.

Integrating ESG into Fiduciary Duties: Challenges and Emerging Developments

The integration of ESG considerations into directors' fiduciary duties presents both opportunities and challenges. On one hand, ESG integration promotes sustainable business practices, enhances corporate reputation, improves risk management, and contributes to long-term value creation. Companies that effectively manage ESG risks are often better positioned to address regulatory changes, investor expectations, and societal concerns. Consequently, many scholars argue that ESG considerations should be viewed as an essential component of directors' duty to act in the best interests of the company.⁸

On the other hand, significant legal and practical challenges remain. One of the principal concerns relates to the absence of clear statutory guidance regarding the relationship between ESG objectives and traditional fiduciary obligations. Directors may encounter situations where short-term profitability conflicts with environmental sustainability or social responsibility goals. In such circumstances, uncertainty regarding legal obligations may discourage proactive ESG decision-making. The lack of precise standards also creates difficulties in assessing director accountability and enforcement.

Another challenge concerns the evolving nature of ESG reporting and compliance requirements. While SEBI's BRSR framework has enhanced sustainability disclosures, questions remain regarding the reliability, comparability, and verification of ESG information. Directors are increasingly expected to oversee complex ESG reporting processes and ensure compliance with emerging regulatory expectations. Failure to adequately address ESG risks may expose companies to financial, reputational, and legal consequences.⁹

International developments have further intensified discussions regarding ESG integration. Several jurisdictions have introduced mandatory sustainability disclosures, climate-related reporting obligations, and corporate governance reforms aimed at strengthening director accountability. These developments indicate a global movement towards embedding sustainability considerations within corporate governance frameworks. India is also witnessing a gradual shift towards recognising ESG as an integral component of responsible corporate conduct.

The present study seeks to critically evaluate whether the existing framework of Indian company law adequately supports the integration of ESG considerations into directors' fiduciary duties. It examines statutory provisions, judicial interpretations, regulatory developments, and comparative practices to assess the legal basis for ESG-oriented decision-making. The study further analyses the challenges associated with implementation and explores potential reforms aimed at strengthening corporate accountability, promoting sustainable governance, and aligning directors' duties with contemporary expectations of responsible business conduct.

Research objectives

1. To examine the extent to which Environmental, Social, and Governance (ESG) considerations are incorporated within directors' fiduciary duties under Indian company law.
2. To evaluate the legal and regulatory challenges in integrating ESG principles into corporate decision-making and suggest reforms for strengthening sustainable corporate governance in India.

RESEARCH METHODOLOGY

The present study adopts a doctrinal research methodology to examine the integration of Environmental, Social, and Governance (ESG) considerations into directors' fiduciary duties under Indian company law. The research is primarily based on secondary sources of data, including the Companies Act, 2013, Securities and Exchange Board of India (SEBI) regulations, Business Responsibility and Sustainability Reporting (BRSR) framework, constitutional principles, regulatory guidelines, and other relevant legislative materials. The study also analyses significant judicial decisions relating to directors' duties, corporate governance, stakeholder interests, and corporate accountability.

In addition to statutory and judicial sources, extensive reference is made to books, legal commentaries, journal articles, research papers, government reports, committee reports, policy documents, newspapers, magazines, and authentic online databases and websites. The research further employs a case study approach by examining selected Indian and international corporate governance cases involving ESG-related concerns, environmental compliance, stakeholder protection, and board accountability. These case studies facilitate a practical understanding of the challenges and implications of ESG integration

⁸World Economic Forum, "Measuring Stakeholder Capitalism", available at: <https://www.weforum.org> (visited on June 7, 2026).

⁹Securities and Exchange Board of India, "BRSR Core Framework", available at: <https://www.sebi.gov.in/legal/circulars> (visited on June 8, 2026).

in corporate decision-making. The collected material is critically analysed to evaluate the adequacy of the existing legal framework and to propose reforms for strengthening ESG-oriented corporate governance in India.

ANALYSIS

The emergence of Environmental, Social, and Governance (ESG) considerations has fundamentally altered the manner in which corporate governance is perceived across the world. Traditionally, directors were expected to focus primarily on profit maximization and shareholder wealth creation. However, the growing impact of climate change, environmental degradation, human rights concerns, social inequality, and corporate governance failures has resulted in increasing demands for responsible and sustainable business conduct. In response, regulators, investors, and stakeholders have begun emphasizing ESG performance as an essential component of long-term corporate success. The present analysis evaluates the extent to which ESG considerations can be integrated into directors' fiduciary duties under Indian company law and examines the legal and regulatory challenges associated with such integration.

The study adopts a doctrinal approach based on statutory analysis, judicial decisions, regulatory frameworks, scholarly writings, and selected case studies. The analysis is undertaken in light of the research objectives, namely, examining the incorporation of ESG principles within directors' fiduciary duties and evaluating the challenges involved in ESG-oriented corporate governance.

Statutory Basis for ESG Integration under Indian Company Law

The Companies Act, 2013 represents a significant shift in Indian corporate governance by introducing a broader stakeholder-oriented approach. Section 166 of the Act codifies directors' duties and requires directors to act in good faith to promote the objects of the company for the benefit of its members while simultaneously considering the interests of employees, shareholders, the community, and the environment.¹⁰ This provision is particularly significant because it extends directors' responsibilities beyond shareholder interests and creates a statutory foundation for ESG considerations. The inclusion of environmental and community interests within directors' duties demonstrates legislative recognition that corporate decisions have broader societal consequences. Unlike traditional corporate governance models that focus primarily on shareholder wealth, Section 166 reflects an evolving understanding that sustainable corporate success depends upon balancing economic objectives with social and environmental responsibilities. Consequently, ESG considerations can be viewed as an extension of directors' statutory obligation to act in the long-term interests of the company.

Further support for ESG integration is found in Section 135 of the Companies Act, 2013, which introduced mandatory Corporate Social Responsibility (CSR) obligations for qualifying companies. Although CSR and ESG are distinct concepts, both reflect a broader commitment to responsible business conduct. The CSR framework reinforces the idea that corporations must contribute to societal welfare and sustainable development rather than focusing exclusively on profitability.

The Securities and Exchange Board of India (SEBI) has further strengthened ESG obligations through the introduction of the Business Responsibility and Sustainability Reporting (BRSR) framework. The BRSR requires listed entities to disclose information relating to environmental performance, employee welfare, governance structures, diversity, human rights, and sustainability initiatives.¹¹ These disclosure requirements indirectly increase directors' responsibility to oversee ESG risks and ensure accurate reporting of sustainability-related information.

The statutory framework therefore suggests that ESG considerations are increasingly becoming an integral component of corporate governance in India. Nevertheless, significant ambiguity remains regarding the precise extent of directors' obligations and the legal consequences of failing to adequately address ESG concerns.

Judicial Interpretation of Directors' Duties and ESG Considerations

Indian courts have historically interpreted directors' duties within the framework of fiduciary responsibility, good faith, and corporate accountability. Although many leading decisions predate the emergence of ESG terminology, their principles provide important guidance regarding the integration of sustainability considerations into corporate decision-making.

¹⁰Companies Act, 2013, s. 166.

¹¹Securities and Exchange Board of India, Business Responsibility and Sustainability Reporting Framework, available at: <https://www.sebi.gov.in> (visited on June 5, 2026).

In *Official Liquidator v. P.A. Tendolkar*, the Supreme Court emphasized that directors occupy a position of trust and must exercise reasonable care, diligence, and good faith in the management of corporate affairs.¹² The decision highlighted that directors cannot escape responsibility for corporate misconduct by claiming ignorance of company affairs. This principle remains relevant in the ESG context because directors are increasingly expected to monitor environmental, social, and governance risks affecting the company.

Similarly, in *Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.*, the Supreme Court held that directors must exercise their powers bona fide and in the interests of the company as a whole.¹³ The judgment recognised that directors owe obligations that extend beyond personal interests and require consideration of broader corporate welfare. ESG principles can be viewed as an extension of this obligation, particularly where sustainability concerns affect the company's long-term interests.

In *Dale & Carrington Investment (P) Ltd. v. P.K. Prathapan*, the Court reaffirmed that directors must act honestly and avoid conflicts of interest.¹⁴ Effective ESG governance similarly requires directors to ensure transparency, ethical conduct, and accountability in corporate decision-making.

The significance of governance-related responsibilities was further reinforced in *N. Narayanan v. Adjudicating Officer, SEBI*, where the Supreme Court emphasized the importance of ethical corporate conduct and accountability in financial reporting.¹⁵ The judgment highlighted that corporate governance failures can undermine investor confidence and damage market integrity. ESG frameworks similarly emphasise transparency, accountability, and responsible governance practices. The landmark decision in *Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd.* further contributed to discussions concerning directors' responsibilities and stakeholder interests.¹⁶ Although the dispute primarily concerned corporate control and minority shareholder rights, the judgment highlighted the importance of balancing diverse stakeholder interests within corporate governance structures. This approach aligns with ESG principles that encourage consideration of broader stakeholder concerns.

These decisions collectively demonstrate that Indian courts have consistently recognised fiduciary duties as extending beyond narrow financial considerations. While ESG is not expressly discussed in most of these cases, the principles of good faith, accountability, transparency, and long-term corporate welfare provide a strong legal foundation for ESG integration.

Environmental Responsibility and ESG: Judicial Case Studies

Environmental sustainability constitutes one of the core pillars of ESG. Several landmark environmental decisions of the Supreme Court have indirectly influenced corporate governance by emphasising environmental accountability and sustainable development.

In *M.C. Mehta v. Union of India*, the Supreme Court developed the principle of absolute liability for hazardous industries and emphasised corporate responsibility for environmental protection.¹⁷ The judgment signalled that business enterprises must bear responsibility for the environmental consequences of their activities.

Similarly, in *Vellore Citizens Welfare Forum v. Union of India*, the Court recognised the precautionary principle and the polluter pays principle as integral components of Indian environmental law.¹⁸ These principles impose obligations upon businesses to prevent environmental harm and internalise environmental costs. Directors who fail to consider environmental risks may therefore expose companies to substantial legal and financial liabilities.

In *Indian Council for Enviro-Legal Action v. Union of India*, the Supreme Court reaffirmed corporate accountability for environmental damage and emphasised the need for effective remedial measures.¹⁹ The judgment highlighted that environmental compliance is not merely a regulatory obligation but a broader social responsibility.

¹²*Official Liquidator v. P.A. Tendolkar*, AIR 1973 SC 1104.

¹³*Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.*, (1981) 3 SCC 333.

¹⁴*Dale & Carrington Investment (P) Ltd. v. P.K. Prathapan*, (2005) 1 SCC 212.

¹⁵*N. Narayanan v. Adjudicating Officer, SEBI*, (2013) 12 SCC 152.

¹⁶*Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd.*, (2021) 9 SCC 449.

¹⁷*M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

¹⁸*Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647.

¹⁹*Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

The decision in *Lafarge Umiam Mining Pvt. Ltd. v. Union of India* further reinforced the concept of sustainable development by requiring a balance between economic growth and environmental protection.²⁰ This approach closely reflects ESG objectives that seek to integrate sustainability into corporate decision-making.

These environmental cases illustrate how judicial recognition of sustainability concerns has gradually influenced expectations regarding corporate conduct. Directors who fail to address environmental risks may increasingly be viewed as neglecting their fiduciary responsibilities.

Comparative Perspectives and Emerging Global Trends

Comparative legal developments provide valuable insights into the future direction of ESG integration under Indian company law. One of the earliest corporate governance decisions addressing stakeholder concerns was *Dodge v. Ford Motor Co.*, where the Michigan Supreme Court emphasised shareholder primacy.²¹ However, contemporary governance frameworks increasingly depart from this narrow approach.

In *Shlensky v. Wrigley*, the Court recognised directors' authority to consider broader business interests beyond immediate profit maximisation.²² This decision supports the view that directors may legitimately account for social and environmental considerations when exercising business judgment.

The English case of *Regentcrest plc v. Cohen* established that directors must act in good faith in what they honestly believe to be the best interests of the company.²³ This subjective approach provides flexibility for directors to consider ESG factors where they reasonably believe such considerations promote long-term corporate welfare.

More recently, *ClientEarth v. Shell plc* highlighted the increasing role of climate-related governance obligations.²⁴ Although the claim ultimately failed, it demonstrated growing expectations that directors must adequately address climate risks and sustainability concerns. Similar developments may influence future interpretations of directors' duties in India.

International trends increasingly recognise ESG as a critical component of corporate governance. Investors, regulators, and courts are placing greater emphasis on sustainability risks, climate disclosures, and stakeholder accountability. These developments suggest that Indian company law may gradually evolve towards stronger recognition of ESG-oriented fiduciary obligations.

Challenges in Integrating ESG into Fiduciary Duties

Despite significant progress, several challenges continue to affect ESG integration within Indian corporate governance. One of the primary challenges is the absence of explicit statutory guidance regarding the precise scope of ESG obligations under Section 166. While the provision refers to environmental and community interests, it does not clearly define how directors should balance competing stakeholder concerns.

Another challenge relates to enforcement. ESG obligations are often implemented through disclosure-based mechanisms rather than direct legal duties. Consequently, it may be difficult to establish liability for inadequate ESG performance unless specific statutory violations occur.

The absence of uniform ESG standards also creates uncertainty. Companies frequently rely upon different reporting frameworks, sustainability metrics, and governance models. This lack of standardisation complicates assessment of director performance and corporate accountability.

Furthermore, directors may face conflicts between short-term profitability and long-term sustainability objectives. Without clear legal guidance, directors may hesitate to prioritise ESG considerations where such decisions could affect immediate financial returns.

Finally, ESG reporting raises concerns regarding greenwashing and inaccurate disclosures. Companies may exaggerate sustainability achievements without implementing meaningful changes. Effective regulatory oversight is therefore essential to ensure the credibility of ESG initiatives.

²⁰ *Lafarge Umiam Mining Pvt. Ltd. v. Union of India*, (2011) 7 SCC 338.

²¹ *Dodge v. Ford Motor Co.*, 170 N.W. 668 (Mich. 1919).

²² *Shlensky v. Wrigley*, 237 N.E.2d 776 (Ill. App. Ct. 1968).

²³ *Regentcrest plc v. Cohen*, [2001] 2 BCLC 80.

²⁴ *ClientEarth v. Shell plc*, [2023] EWHC 1137 (Ch).

CONCLUSION

The analysis demonstrates that Indian company law provides a substantial, though evolving, foundation for integrating ESG considerations into directors' fiduciary duties. Section 166 of the Companies Act, 2013, CSR obligations, and SEBI's BRSR framework collectively indicate a shift towards stakeholder-oriented corporate governance. Judicial decisions concerning fiduciary duties, environmental accountability, and corporate governance further support the incorporation of ESG principles into corporate decision-making.

However, significant legal and practical challenges remain. Ambiguities regarding the scope of directors' obligations, limitations in enforcement mechanisms, inconsistent ESG standards, and concerns relating to sustainability disclosures continue to affect implementation. Nevertheless, global developments and increasing stakeholder expectations suggest that ESG considerations will play an increasingly important role in shaping directors' responsibilities under Indian company law. Strengthening regulatory clarity and enhancing corporate accountability will be essential for ensuring effective integration of ESG principles into the fiduciary framework governing corporate governance in India.

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