NAVIGATING SHARE TRANSFER AND TRANSMISSION: A CRITICAL STUDY OF SECTIONS 56 AND 58 OF THE COMPANIES ACT, 2013

KM Anirudh, Bharati Vidyapeeth Deemed University, New Law College, Pune

Hetal Jain, Bharati Vidyapeeth Deemed University, New Law College, Pune

ABSTRACT

The transfer of shares, which are a collection of rights and responsibilities within a business, is essential to corporate finance and ownership structure. Because they specify how ownership in a business shifts, either voluntarily via an act of parties or automatically by operation of law, transfer and transmission of shares are fundamental ideas in company law. Section 56 of the Companies Act, 2013 governs the formal requirements for the transfer of securities, which include a properly stamped document, execution by the transferor and transferee, and delivery within the allotted time frame. In contrast, transmission occurs when title passes through death, insolvency, or other comparable legal events. The doctrinal differences between the two ideas, legislative compliance, procedural protections, judicial interpretation, shareholder and legal representative rights, and current concerns under dematerialised securities and corporate governance are all examined in this paper.

Keywords: Ownership, shares, Transmission, legislative compliance.

1. Introduction-

Transfer is a consensual transaction, while transmission is a legal consequence, like death or insolvency, according to Indian company law, which views them as separate legal mechanisms. The distinction is important since each case has different formalities, burdens of proof, and legal ramifications.

Section 56 of the Companies Act, 2013 is the fundamental statutory provision governing transfer and transmission of securities. By guaranteeing that ownership changes are legitimate, registered, and documented, it upholds the company's function as gatekeeper of the register of members. Additionally, the clause links shareholder rights with compliance requirements by imposing deadlines for certificate issuance and establishing default liability.

2. ‘Distinction in the Concepts-

A voluntary act between live people, the transfer of shares typically involves consideration and the desire to transfer ownership. It is often accomplished by using an appropriate transfer document that has been duly stamped, executed, and registered by the business. Transmission of shares, on the other hand, happens when shares vest in heirs, legal representatives, or assignees in an insolvency case and is based on operation of law rather than contract.

There is more to the distinction than just semantics. In transfer, the transferee must typically satisfy statutory and contractual criteria, whereas in transmission the legal representative demonstrates title through death certificate, succession certificate, probate, or analogous documents depending on the circumstances and the company’s articles. Because the legal basis of title is distinct, courts have consistently stressed that transfer provisions cannot be mechanically imposed on gearbox.

2.1.Statutory Framework-

According to Section 56(1), a business cannot register a transfer of securities unless the certificate or letter of allocation and an appropriate, properly stamped, and executed instrument of transfer are given within sixty days after the execution date. The clause allows for an exemption in which the board may register the transfer on whatever indemnity terms it deems appropriate in the event that the instrument is misplaced or not delivered on time.

Section 56(2) protects the company's capacity to register transmission upon indication of the right to securities by operation of law. When a transfer involving partially paid shares is made by the transferor alone, Section 56(3) mandates that the transferee be notified. Section 56(4) establishes periods for transmission of certificates, and Section 56(5) recognises transfer by a legal representative even if that representation was not a holder at the time of execution. While Section 56(7) deals with fraudulent depository transactions under Section 447, Section 56(6) establishes penalties for non-compliance.

2.2. Transfer of Shares-

Although it is a statutory right, the Companies Act and the articles of association govern share transfers. Shares are considered movable property under Indian company law, and a transfer is typically seen as a contractual assignment of a proprietary interest from the transferor to the transferee. The transferee may have equitable rights but not full shareholder status prior to registration; the company's register is not only administrative but constitutive of legal membership.

In paper-based transfers, the official need of a stamped document is still essential. According to the ICSI material, stamp duty and execution concerns have led to significant litigation, especially around what constitutes "duly stamped" and who is responsible for attaching stamps. The procedural burden is typically on the transferor, although contract and statutory stamp rules may have an impact on the exact allocation.

It is important to emphasise that a transfer is not complete just when parties agree with one another. The company's membership register is still essential since the transferee might not be able to take advantage of all the benefits of membership until they are registered. Therefore, by requiring transfer to follow the correct legal form, the regulation safeguards both the business and the market.

2.3. Transmission of Shares-

Transmission occurs by operation of law, not by voluntary transmission. It typically occurs after a member passes away, becomes insolvent, or is adjudicated; with proof of title, the legal representative or successor is entitled to have the shares registered in their name. Courts and commentators regularly assert that no transfer deed is necessary because transmission is not an act of transfer.

Businesses cannot insist on formal transfer documentation in cases when title has already legally vested, but they may demand reasonable evidence prior to transference. This strategy strikes a balance between the rights of heirs and legal successors and administrative clarity. This idea is reflected in Section 56(2), which permits registration upon notification of transmission.

A different question is raised by transmission than by transfer: who has the right to assume the role of the shareholder who has passed away or become insolvent? Legal succession and proof, not a contract, determine the answer. In principle, this facilitates transmission, but when multiple heirs claim the same shares, it can occasionally be complicated in reality.

In family-owned businesses, where shares often devolve upon death, this statutory design is particularly crucial. Lawful heirs must be able to register without the procedure becoming a complete transfer transaction. By maintaining the idea of transmission as a separate legal category, Section 56 achieves that.

3. Judicial Interpretation-

In **Mannalal Khetan v. Kedar Nath Khetan**[1], the Supreme Court emphasised that non-compliance cannot be disregarded as a simple technicality by treating adherence to the statutory framework governing share transfer as necessary. This ruling is often used to support the idea that registration must follow the statute and that the transfer provisions are not directory in the traditional sense.

The relevance of this verdict is doctrinally crucial. It implies that a transfer that does not have the necessary legal form cannot be regarded as legitimate just because the parties wanted it to be. The case therefore confirms the argument that share transfer is not governed merely by private consent but by statutory demand. For this reason, the case continues to be crucial to any discussion of share transfers.

Because it articulates the policy of certainty in company membership, the ruling is also helpful. The law requires formal compliance before acknowledging a transfer since the

[1] 2 SCC 424; AIR 1977 SC 536

register of members establishes legal ownership and related rights. In this regard, Mannalal Khetan supports the idea that informal or flawed agreements cannot be used to change the membership list.

The Court looked at directors' failure to register transfers in **Bajaj Auto Ltd. v. N.K. Firodia** [2]and stressed that directors must act honestly, in accordance with the articles, and in the company's best interests. The case is significant because it restricts arbitrary rejection and emphasises that directors' discretion is not unrestricted.

Because it stops corporate power misuse, this case is significant. A board cannot turn down a transfer just because it doesn't like the transferee, because of personal rivalry, or because of ulterior considerations unrelated to the company's objectives. As a result, the case sets a benchmark for moral and appropriate decision-making. It strikes a theological balance between shareholder sovereignty and corporate control.

Transmission is handled more simply by the courts. Institutional and academic materials summarising case law on transfer, including authorities cited by the ICSI and practitioner literature, convey the idea that legal heirs are entitled to registration upon appropriate proof. The theological point is that, rather than by contract, transmission occurs once title is vested by law.

3.1.Refusal to transfer-

Courts have consistently ruled that a failure to register a transfer cannot be made arbitrarily. The denial must be supported by the law, the articles, or a legitimate corporate justification. This principle upholds the company's rightful interest in keeping accurate membership records while safeguarding the free transferability of shares.

Therefore, the power of refuse must be used carefully. A board may be acting dishonestly if it declines registration for unrelated grounds; this can be contested in the relevant forum. As a result, the judiciary has established a crucial check on corporate power within.

[2] 1971 AIR 321

3.2. 'Good Faith' as a controlling standard-

Courts frequently apply good faith as the governing standard in both transfer and transmission cases. The directors' discretion in transfer matters must be used for the company's advantage rather than for private or nefarious purposes. The same criteria is used when the board determines whether the supporting documentation adequately establishes succession in transmission circumstances.

In other words, judicial interpretation limits discretion rather than eliminating it. Directors may defend the company's interests under the law, but they must do so in a way that is logical, sincere, and compliant with the legislative framework.

4. Powers of the Board and Articles-

Share transfers may be governed by the articles of organization, but they cannot conflict with legally required rules. If the articles are silent, default statutory norms take effect; if they limit transfer, those limitations must nevertheless be compliant with the law and public policy. The board's ability to refuse registration must be utilised equitably, for legitimate reason, and in compliance with the company's constitution

In transmission cases, the board's role is narrower. It may verify documents and proof of succession, but it cannot transform transmission into a transfer or impose superfluous conditions inconsistent with Section 56. This is especially relevant in closely held companies, where disputes often arise after the death of a shareholder.

For corporate governance, this distinction is crucial. It prevents abuse of control in closely held corporations and minimises the possibility that directors would use procedural objections to hinder legal ownership changes. As a result, the case law serves as a restraint on management authority.

5. Procedural Requirements-

The transfer instrument must be executed, stamped, delivered within the allotted time, and, if necessary, approved by the corporation. The transferee must receive notification if the shares are partially paid and the transferor is the only applicant. The transferee has two weeks to object. These protections prevent against contested or fraudulent transfers for both the company and the transferee.

A death certificate, succession certificate, probate, letters of administration, or proof of insolvency are typical examples of the evidential criteria for transmission, which vary depending on the facts and business practices. The chain of title must be established by the legal representative, and the business must accept adequate evidence in a reasonable manner. Compared to transfer, transmission has fewer formalities because it is mandated by law.

5.1.Compliance and Time Limits-

This statutory design is especially important in family-owned firms, since shares frequently devolve upon death. Lawful heirs must be allowed to register without the procedure becoming a complete transfer transaction. Section 56 does this by upholding the notion of transmission as a distinct legal category.

The business might not be required to automatically register the transfer if the required documents are not delivered on time. As a result, the statutory scheme requires the parties to adhere to the official procedure and guarantees the accuracy and dependability of the membership register. From the standpoint of corporate governance, this is one of Section 56's best aspects.

5.2.Penalty for non-compliance-

Penalties for default are also outlined in Section 56. The statute stipulates a punishment for the corporation or its officers who do not adhere to the section's criteria. This is important because it makes the clause an enforceable legal duty rather than just a procedural regulation.

Legislative seriousness regarding share transfers and transmissions is demonstrated by the penalty system. It guarantees that businesses do not view certificate issuing, legal succession recognition, or registration as optional administrative tasks. This statement is helpful in a doctrinal article since it shows how coercive power supports statutory conformity.[3]

[3] Moiz Akhtar, Section 56 of Companies Act, 2013, iPleaders (Apr. 22, 2024), https://blog.ipleaders.in/section-56-of-companies-act-2013/

5.3.Significance of Statutory Schemes-

The statutory framework is constructed on three principles: clarity, traceability, and protection against fraud. While transmission is straightforward since the law already acknowledges that title has passed by operation of law, transfer is formal because the law requires evidence of voluntary intention and appropriate execution. As a result, the distinction is fundamental to the statutory design and is not coincidental.

5.4. Related Provisions-

A legislative analysis is lacking if Section 58 of the Companies Act, 2013 is overlooked, even though Section 56 is the primary requirement. Section 58 addresses registration refusals and appeals against them, particularly with regard to private firms and other situations. As a result, it serves as a corrective addition to Section 56.

It is crucial to understand the connection between Sections 56 and 58. While Section 58 deals with what occurs if the corporation declines to register the change, Section 56 establishes the substantive and procedural framework for transfer and transmission. They work together to provide the legal framework for share movement and registration issues.[4]

The legal importance of the register of members is further highlighted by court rulings. The register is the official record of membership and ownership for business purposes; it is not just a clerical document.[5] Because of that, courts insist on compliance with legislative and procedural standards before the register is updated.[6]

Mannalal Khetan Case is still fundamental because of this. A flawed document cannot be fixed by intention alone if the transfer requirements are mandatory. Similarly, before the register can be amended when transmission is involved, the legal basis of title must be demonstrated. Both lines of power are supported by the same fundamental concept.[7]

---

[4] *Supra Note 3*

[5] Akshay Bhargav, Archana Rajaram & Amrita Singh, Transfer Restrictions – Would They Hold Up in Court? (Nishith Desai Assocs., Dec. 10, 2009), https://nishithdesai.com/fileadmin/user_upload/pdfs/transfer%20Restrictions_Dec0309.pdf

[6] Transfer and Transmission of Shares, LawTeacher, https://www.lawteacher.net/free-law-essays/business-law/transfer-and-transmission-of-shares-business-law-essay.php (last visited July 5, 2026)

[7] Vaish Associates Advocates, Between the Lines (Apr. 2021), https://www.vaishlaw.com/wp-content/uploads/2021/04/Between-the-Lines-April-2021.pdf

Concerns about public policy are also reflected in judicial interpretation. Courts take care to prevent businesses from using internal authority as a weapon to erect fictitious obstacles to the transfer of shares. However, they do not want informal agreements or flawed instruments to circumvent the statutory structure. As a result, transferability is safeguarded but not rendered unlawful in a controlled system.

When directors reject a transfer due to animosity toward the transferee, this balance is particularly evident. Courts have cautioned time and time again that such actions could be considered a dishonest use of authority. Therefore, the legal criteria is whether the denial is supported by the company's legitimate interests and the law, rather than whether the board opposes the transferee.

When combined, the instances produce a cohesive theological stance. Transfer needs stringent statutory conformity and can be refused only on valid reasons; transmission arises by operation of law but still permits limited verification of title; and in both circumstances, the board’s power is regulated by the responsibilities of reasonableness and good faith.

5.5.Time Limit-

The appeal must be submitted within the Section 58 statutory deadline. According to the India Code, the transferee may file an appeal within 30 days after receiving the notice of rejection, or within the allotted time frame if no notice is received. Additionally, tribunal evidence demonstrates that the remedy may be defeated by delay, and courts have denied relief in cases where the petition was brought after an excessive amount of time had passed.

The Tribunal may order the business to register the transfer or transmission if it determines that the rejection was unreasonable.[8] Therefore, the remedy is not just declaratory; it may lead to a positive order that requires the firm to complete registration and make changes to its register.[9]

---

[8] Section 58. Refusal of Registration and Appeal Against Refusal, Companies Act Integrated Ready Reckoner (CAIRR), https://ca2013.com/refusal-of-registration-and-appeal-against-refusal/ (last visited July 5, 2026)
[9] Section 58 – Refusal of Registration and Appeal Against Refusal, KanoonGPT, https://kanoongpt.in/bare-acts/the-companies-act-2013/chapter-iv-section-58-aeb2a9dd551d41cb (last visited July 5, 2026)

6. Conclusion-

Section 56 of the Companies Act, 2013 is the primary statutory law controlling both the transfer and transmission of shares, which are separate legal methods. While transmission is automatic by operation of law and backed by evidence of succession, transfer is formal and voluntary. Courts demand conformity, impartiality, and sincere decision-making, as demonstrated by the landmark cases, including Mannalal Khetan and Bajaj Auto.

In business law, the transfer and transmission of shares are separate but related processes. Transfer is voluntary and contractual, while transmission is involuntary and occurs by operation of law; Section 56 of the Companies Act, 2013 provides the statutory framework governing both. The section's formal requirements, timetables, and penalties maintain predictability, but judicial decisions such as Mannalal Khetan and Bajaj Auto protect the mandatory character of compliance and the constraints on directors' discretion.