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SELECTIVE CAPITAL REDUCTION AFTER PANNALAL BHANSALI: WHAT THE SUPREME COURT SETTLED, AND THE LEGAL GAP THAT REMAINS

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On March 10, 2026, the Supreme Court decided *Pannalal Bhansali v. Bharti Telecom Limited & Ors.* (2026 INSC 213)[591], a case that finally answers a question Indian company law had left unsettled for over two decades: can a company use Section 66 of the Companies Act, 2013[592] to reduce its share capital by targeting only a defined group of shareholders, while leaving everyone else's holding untouched?

The Bench of Justices Sanjay Kumar and K. Vinod Chandran said yes. That holding closes one debate and opens another: once selective reduction is confirmed as lawful, what actually stops a company from using Section 66, rather than a scheme of arrangement or the statutory squeeze-out route, precisely because Section 66 asks less of it?

Bharti Telecom Limited (BTL) is an unlisted, closely held company that came off the stock exchanges between 1999 and 2000. Its only real business is holding a large stake in Bharti Airtel Limited (BAL), the listed telecom company. Individual investors held about 1.09% of BTL.

In 2018, BTL moved to cancel 28,457,840 equity shares held by these individual shareholders under Section 66, offering them an exit price. It first set that price at Rs. 163.25 per share after deducting Dividend Distribution Tax. Shareholders approved the resolution by a margin above 99.90%. The NCLT confirmed the reduction but held the tax deduction was arbitrary and raised the price to Rs. 196.80 per share. BTL paid that amount, but thirty-five shareholders still challenged the reduction itself before the NCLAT, and lost. Their appeal reached the Supreme Court wherein three objections were before the Court. First, on valuation method: since BTL's only asset was its BAL shareholding, the appellants argued the price should track BAL's listed market value directly, without any Discount for Lack of Marketability (DLOM), citing the Singapore Court of Appeal's approach in *Kiri Industries Ltd. v. Senda International Capital Ltd.*[593] Second, on price: they pointed to a 2007 private offer of Rs. 2,000 per share and SingTel's 2018 purchase of BTL shares at Rs. 310 per share as proof that Rs. 196.80 undervalued their stake. Third, on procedure: they argued the notice calling the meeting did not properly disclose the valuation methodology and that the valuer's link to BTL's internal auditor was a conflict of interest.[594]

The Court decided the following:

Selective reduction is valid.

Section 66 lets a company reduce its capital "in any manner" and the Court read that phrase as permitting differential treatment, meaning a company can cancel one group's shares and leave another group's shares alone. This tracks the Court's own earlier reasoning in *Reckitt Benckiser (India) Ltd.*[595] and lines up with what the Bombay High Court held in *Elpro International Ltd., In re*[596] and the Delhi High Court

591 Pannalal Bhansali v. Bharti Telecom Limited & Ors., 2026 INSC 213.

592 Companies Act, 2013, § 66(1).

593 Kiri Industries Ltd v Senda International Capital Ltd & Anor, [2022] SGCA(I) 5 (Sing. CA).

594 *supra* note 1.

595 Reckitt Benckiser (India) Ltd., In re, 122 (2005) DLT 612 (Del.) (India).

596 Elpro International Ltd., In re, [2009] 149 Comp Cas 646 (Bom.).

held in *RS Livemedia (P) Ltd., In re*. Those cases had already leaned toward allowing disproportionate reduction, so the Supreme Court's decision here is less a doctrinal leap than a formal endorsement of the position most tribunals had already converged on. Once a special resolution passes with the required majority, the majority also gets to decide how the reduction is structured.

A valuation report is not compulsory.

The Court held that nothing in Section 66 requires a registered valuer's report before a company can proceed. It reached that conclusion by comparing Section 66 to provisions such as those governing preferential allotments and schemes of arrangement under Sections 230 and 232,[597] where the statute does require independent valuation in express terms. Because the legislature imposed that requirement in some places and not others, the Court treated the omission in Section 66 as intentional rather than accidental. In practical terms, a company relying on Section 66 has fewer built-in documentary obligations than one relying on a scheme of arrangement, even though the outcome for the affected shareholder, an involuntary cash exit, can be identical either way.

Discount on the threshold of valuation is acceptable.

The Court accepted DLOM as a legitimate valuation input for an unlisted, illiquid company's shares, consistent with Ind AS 113 and ICAI Valuation Standard 103,[598] even where the company's only underlying asset is a listed security. It declined to follow the appellants' reliance on *Kiri Industries*.[599]

Tribunal review stays narrow.

The NCLT and NCLAT are not meant to run their own valuation exercise or substitute their commercial judgment for the company's. Absent perversity, a clear procedural lapse, or bad faith, tribunals will defer to the valuation process the company actually followed. The historical prices the appellants relied on, the 2007 offer and the SingTel transaction, were held not comparable, given intervening rights issues, changed market conditions, FEMA pricing rules, and the strategic premium built into a promoter-to-strategic-investor deal.

The distinction between Section 66 and Section 244.

The Court separated a capital reduction confirmation from an oppression and mismanagement claim, holding the two rest on different statutory thresholds.[600] Being forced out of a company through a Section 66 reduction does not, by itself, amount to oppression under Section 244. A shareholder resisting the reduction cannot simply borrow the tougher fairness test used in oppression cases.

Elements of adequate notice.

The Court found BTL's notice adequate as it disclosed the essential fact, the exit price, and the valuation and fairness reports were available for inspection at the registered office rather than attached to the notice itself. The Court did not treat that as a defect, partly because the challenging investors were experienced market participants who had not raised the point at the relevant time. It also rejected the claim that the valuer's association with BTL's internal auditor amounted to bias.

The Doctrinal Gap Left By the Court

The judgment repeatedly invokes a fairness standard, holding that reduction is permissible provided it is not shown to be unfair or prejudicial, without ever converting that phrase into a workable test. Two structural features of the case make this gap easy to miss and important to flag.

[597] Companies Act, 2013, §§ 230, 232 (India).

[598] Ind. Accounting Standard (Ind AS) 113, *Fair Value Measurement* (Inst. of Chartered Accountants of India 2015).; Inst. of Chartered Accountants of India, ICAI Valuation Standard 103: *Valuation Approaches and Methods* (2018).

[599] Kiri Industries Ltd v Senda International Capital Ltd & Anor, [2022] SGCA(I) 5.

[600] Companies Act, 2013, § 244 (India).

First, the facts were unusually favorable to the company. BTL had a 99.90% approval margin, the challenging shareholders were sophisticated, legally represented investors rather than unsophisticated retail holders, and BTL obtained an independent valuer's report and a fairness opinion even though the statute did not require either. None of that was legally necessary under the Court's own reasoning, yet all of it likely made the outcome easier to defend. The next case testing Section 66 will probably not have all three of those features present at once, and the judgment gives limited guidance on how the analysis changes when the majority is smaller, the minority less equipped to litigate, or the company skips the voluntary valuation exercise altogether.

Second, and more structurally significant, the judgment does not address the interaction between Section 66 and India's other minority-exit mechanisms in any detail. Section 236 permits a 90% majority acquirer to compulsorily buy out the remaining minority, but only once that 90% threshold is met, and with its own valuation safeguards. Sections 230 and 232 require independent valuation for schemes of arrangement. Section 66 now sits alongside both routes as an available alternative, but with a lighter procedural burden and, per this judgment, a deferential standard of review. A promoter group deciding how to eliminate a minority shareholding now has a genuine choice between three statutory paths with three different levels of built-in protection for the shareholder being bought out, and nothing in the Companies Act or in this judgment requires the company to pick the one that actually offers the shareholder the strongest safeguards. That is not a hypothetical concern but is the exact structural choice BTL made when it used Section 66 rather than a scheme of arrangement to remove its minority holders.

Other common law jurisdictions have not resolved this tension by simply deferring to majority will. English company law's "unfair prejudice" remedy under Section 994 of the Companies Act 2006[601] and the statutory buyout mechanisms tied to it developed specifically because courts recognized that majority-approved transactions could still work unfairly on a minority, and English courts have been willing to look past formal compliance with voting requirements to examine substantive fairness. Delaware's approach to freeze-out mergers, after *Weinberger v. UOP* and its progeny, requires "entire fairness," meaning both a fair process and a fair price, with the burden often resting on the controlling shareholder rather than the party challenging the transaction.[602] The Indian position after *Pannalal Bhansali* moves in something closer to the opposite direction for Section 66 specifically. The burden sits with the challenging shareholder to prove unfairness, procedural compliance carries significant weight even without mandatory valuation disclosure, and the tribunal's own review is expressly limited to correcting perversity rather than assessing substantive fairness afresh. Whether that divergence is appropriate for a jurisdiction where closely held company structures and concentrated promoter shareholding are the norm, rather than the exception, is a policy question the judgment does not engage with, and one that a legislative or regulatory response may eventually need to.

For companies and promoter groups considering a minority buyout, the case confirms that Section 66 is now a credible, lower-cost route, provided a few conditions from the BTL fact pattern are replicated even though they are not strictly mandatory. A company relying on this judgment as precedent should still consider commissioning an independent valuation and fairness opinion, making that report reasonably accessible to affected shareholders even if not annexed to the notice, ensuring the special resolution reflects a clear supermajority, and documenting the commercial rationale for the transaction. None of this is now a statutory requirement, but all of it is what made BTL's

[601]Companies Act 2006, c. 46, § 994 (U.K.).

[602]Weinberger v. UOP, Inc., 457 A.2d 701 (Del. 1983).

version of the transaction defensible on facts that could have gone the other way with a thinner record.

For minority shareholders, the case narrows the available arguments considerably. Valuation methodology challenges will need to show something closer to perversity or bad faith than simple disagreement with the numbers. Notice-based challenges will need to show a genuine absence of material disclosure, not merely that supporting documents were available on request rather than attached. Given how deferential the review standard now is, minority shareholders facing a Section 66 reduction have more reason to negotiate exit terms before the resolution is put to a vote than to rely on post-hoc tribunal or court intervention.

Pannalal Bhansali settles the legality of selective capital reduction but it does not settle where the line sits between a valuation exercise a tribunal will defer to and one it will strike down as unfair or prejudicial, and it does not address why Indian company law should allow three separate minority-exit routes with three different levels of shareholder protection, while leaving the choice among them entirely to the company being challenged. Until a case reaches the Supreme Court with a less favorable fact pattern than BTL's, both questions remain open.