

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**ORDER**

**IN THE MATTER OF PROPOSED INCREASE IN VOTING RIGHTS OF BHAGYANAGAR INDIA LIMITED—APPLICATION FILED UNDER REGULATION 4(2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 1997**

1. Bhagyanagar India Limited (hereinafter referred to as the target company) is a company incorporated under the Companies Act, 1956, having its registered office at 5<sup>th</sup> Floor, Surya Towers, Sardar Patel Road, Secunderabad- 500003. The equity shares of the target company are listed on the National Stock Exchange of India Limited and Bombay Stock Exchange Limited. Mr. Narender Surana, on his behalf and on behalf of Mr. G Mangilal Surana, Mr. Devendra Surana, Mr. Manish Surana, Mrs. Namrata Surana, Mrs. Sunita Surana, Mrs. Chand Kanwar, Ms. Nivriti Surana, Ms. Vinita Surana, Mr. Rahul Surana, Mrs. Sresha Surana, Ms. Mitali Surana, Mr. Advait Surana, G.M Surana HUF, G.M. Surana MHUF, Narender Surana HUF, Devendra Surana HUF, Surana Infocom Private Limited, Surana Telecom & Power Limited all belong to the promoter group (hereinafter collectively referred to as the acquirers), vide letter dated March 14, 2011 filed an application under Regulation 4(2) read with Regulation 3(1)(I) of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as the Takeover Regulations). According to the application, the acquirers belong to the promoter group of the target company which hold 4,45,14,446 equity shares representing 65.08% of the total equity share capital. It is stated in the application that the target company proposes to buy-back 80,00,000 equity shares at a price not exceeding ₹35/- per equity shares, from the

open market through the stock exchange. As per the application, the aforesaid buy-back proposal has been approved through the board resolution dated January 27, 2011 and through postal ballot by the shareholders of the target company on March 10, 2011. It is further stated that pursuant to the proposed buy-back, the shareholding of the promoter group (including the acquirers) would increase to 73.70% assuming 100% success of the said buy-back. As the proposed buy-back by the target company would increase the voting rights of the acquirers from 65.08% to 73.07% thereby requiring them to comply with the requirements of Regulation 11(2) of the Takeover Regulations, the application has been made seeking exemption from SEBI in respect of making a public announcement as provided under the aforesaid regulation, *inter alia* on the following grounds:

- a) The increase in the shareholding of the promoter group (including the acquirers) is only incidental to the proposed buy-back offer of equity shares announced by the target company assuming a 100% response thereto at the maximum shares that could be bought back.
- b) The aforesaid increase in shareholding would not result in a change in control of the target company.
- c) The maximum price at which the buyback is proposed is ₹35/- and is higher than the book value of ₹32.25/- per share (as on March 31, 2010) and the minimum price of ₹21.46/- computed in accordance with Regulation 20 of the Takeover Regulations.

2. The shareholding pattern of the target company (as given in the application) before and after the proposed buy-back (assuming 100% response) is as under:

Shareholders Category	No. of registered Shareholders as on date of application	Before the proposed buy-back		After the proposed buy-back	
		No of Shares/ total voting rights held	% of Shares/ total voting rights held	No of Shares/ total voting rights held	% of Shares/ total voting rights held
Promoter Group (including the acquirers)	24	44514446	65.08	44514446	73.70
FIs/ Banks	3	1496171	2.19	15885554	26.30
FIIIs/ NRIs/ OCBs	145	4513701	6.60		
Public	14795	17875682	26.13		
Total	14967	68400000	100	60400000	100

It is further stated in the application that the target company has 100 zero coupon Foreign Currency Convertible Bonds (hereinafter referred to as FCCBs) of USD 1.0 lakh each outstanding, due for conversion by October 10, 2011, and if offered for conversion at the option of the Bond holders, would result in an issue of 10445455 equity shares of ₹2/- each. If all FCCB's are converted into equity shares, the promoters holding would further reduce to that extent and would become 62.83%.

3. Thereafter, the acquirers vide letter dated April 27, 2011 replied to certain queries sought by SEBI in respect of the application. The application was forwarded to the Takeover Panel, by SEBI, in terms of Regulation 4(4) of the Takeover Regulations. The Takeover Panel, vide Report dated May 23, 2011, has recommended as under:

“It was observed that the Target Company had earlier made buyback offer pursuant to exemption order dated September 30, 2009 passed by SEBI and the said offer closed on 18/05/2010. The Target Company proposes to go for another buyback offer which will result in increase in the applicants' share holding from 65.08% to 73.70%. The maximum price at which the buyback is proposed is Rs. 35/- which is higher than the book value per share as well as price determined as per SEBI formula. Panel observed that the proposed offer will provide as exit option to those share holders who desire to exit and it will further enhance overall share holders' value. It was also observed that even after the proposed buyback offer, the public share holding will still remain above the minimum threshold level of 25% for the public share holding.

In view of the aforesaid, proposal for the buyback offer was considered to be in the interest of public shareholders. Panel therefore recommended exemption from the applicability of Regulation 11(2) of the Takeover Regulation subject to the Target Company/acquirers complying with the relevant provisions of the Companies Act, 1956, SEBI Regulation and Listing Agreements.”

4. I have considered the application, the subsequent information provided by the acquirers, the abovementioned recommendations of the Takeover Panel and other relevant material available on record. I note that, though, pursuant to the proposed buy-back of the target company, the shareholding and voting rights of the promoter group (including the acquirers) in the target company would increase from 65.08% to 73.70% (of the outstanding equity share capital), the number of shares held by them would remain same at 4,45,14,446. The increase in shareholding

and voting rights of the acquirers is incidental to the buy-back offer of the target company. The proposed buy-back offer would not result in change in control over the target company, as the acquirers belongs to the promoter group are already in control over the target company. The acquirers have also stated that they do not have any intention to participate in the buy-back of the target company. The increase in the acquirers' shareholding and voting rights in the target company would be only incidental to the proposed buy-back by the target company. As per the application, even after the proposed buy-back (assuming 100% response), the public shareholding in the target company would be at a level more than what is required for meeting the minimum public shareholding requirement specified in Clause 40A of the Listing Agreement. As per the application, the proposed buy-back would be done through open market in terms of Securities and Exchange Board of India (Buy-Back of Securities) Regulations 1998 and that, the proposed buy-back is at a price ₹35/- which is higher than the book value i.e. ₹32.25/- (as on March 31, 2010) and the minimum price of ₹21.46/- computed in accordance with Regulation 20 of the Takeover Regulations. I also note that acquirers had previously filed an application for exemption with regard to their increase in voting rights in the target company from 59.75% to 69.01% in respect of a buy-back offer proposed in the year 2009. The said application was considered and SEBI, vide Order dated September 30, 2009 granted exemption to the acquirers therein.

5. Considering the facts and circumstances, I agree with the recommendations of the Takeover Panel and grant exemption to the acquirer from the applicability of Regulation 11(2) of the Takeover Regulations, pursuant to the present buy-back offer of the target company, subject to the target company/acquirers complying with relevant provisions of law. However, I note that the target company had previously offered buy-back of its securities and consequentially, the holding of the promoter group had also increased. The present buy-back offer would also increase

their holding, as stated above in this order. Though, I agree with the recommendation of the Takeover Panel in respect of the increase in the voting rights of the promoter group (including the acquirers) from 65.08% to 73.70%, pursuant to the proposed buy-back offer, SEBI as a Regulator would not like to encourage repeated buy-back offers.

6. In view of the above findings, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 4(6) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, hereby grant exemption to Mr. Narender Surana, Mr. G. Mangilal Surana, Mr. Devendra Surana, Mr. Manish Surana, Mrs. Namrata Surana, Mrs. Sunita Surana, Mrs. Chand Surana, Ms. Nivriti Surana, Ms. Vinita Surana, Mr. Rahul Surana, Mrs. Sresha Surana, Ms. Mitali Surana, Mr. Advait Surana, G.M. Surana HUF, G.M. Surana MHUF, Narender Surana HUF, Devendra Surana HUF, Surana Infocom Private Limited, Surana Telecom & Power Limited, from complying with the provisions of Regulation 11(2) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 with respect to their increase in voting rights from 65.08% to 73.07%, consequent upon the proposed buy-back of equity shares by the target company, Bhagyanagar India Limited.

7. The exemption is granted subject to the following conditions:

- (a) The statements/averments made/facts or figures given in the application and in the subsequent correspondence are true and correct to the best knowledge of the acquirers.
- (b) The acquirers along with others in promoter group shall ensure compliance with the statements, disclosures and undertakings made in the application and in the subsequent correspondence.
- (c) The proposed buy-back of equity shares shall be in accordance with the Companies Act, 1956, the Securities and Exchange

Board of India (Buy-back of Securities) Regulations, 1998, the Listing Agreement and other applicable laws.

8. The acquirers are advised not to seek any further exemption pursuant to any further buy-back offer by the target company, for the reasons stated above in this Order.

9. This exemption shall not be construed as exemption from requirements of any other provisions of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (e.g. disclosure requirements under Chapter II), the Listing Agreement or any other law.

**DR. K. M. ABRAHAM  
WHOLE TIME MEMBER  
SECURITIES AND EXCHANGE BOARD OF INDIA**

**PLACE: MUMBAI  
DATE: JUNE 27, 2011**