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INVESTOR BOARD RIGHTS AND FOUNDER CONTROL IN VENTURE CAPITAL-FUNDED INDIAN START-UPS

BY: AARTI MEHTA

In June 2023, three board members of BYJU'S quit within a few days of each other. These weren't minor appointees they represented Peak XV Partners (formerly Sequoia India), Prosus, and the Chan Zuckerberg Initiative. Just before that, Deloitte walked away as auditor, saying it hadn't gotten the financial records it needed. After all this, BYJU'S board had only three people left: founder Byju Raveendran, his wife Divya Gokulnath, and his brother Riju.¹

Now think about that for a second. A company backed by some of the most experienced VC funds in the world ended up with a board made entirely of one family. These investors had board seats. They almost certainly had the usual protections too veto rights, approval rights, and all the standard stuff. But when the company actually got into trouble, the only real move available to them was to walk out.² That's not much of a "control right" when you actually need it.

Most paper on this topic explains what these rights are and confirms courts will enforce them. What's missing is how these rights actually behave as a company grows, and what happens when they're tested for real. That's what I want to dig into here. Two tools show up again and again in how VCs and PEs control the companies they invest in. First, board seats investors get

¹ Samidha Sharma & Digbijay Mishra, *More Trouble for Byju's as Three Board Members, Auditor Deloitte Resign*, Econ. Times (July 25, 2023), <https://economictimes.indiatimes.com/tech/startups/more-trouble-for-byjus-as-key-board-members-resign-sources/articleshow/101191922.cms>

² BS Reporter, *Prosus, Peak XV Partners, CZI Confirm Stepping Down from Byju's Board*, Bus. Standard (June 23, 2023), https://www.business-standard.com/companies/news/peak-xv-partners-prosus-confirm-resignation-of-byju-s-board-members-123062301207_1.html

to place their own directors (called nominee directors) on the board, sometimes with a rule that a meeting isn't valid unless their nominee shows up. Second, veto rights the shareholders' agreement lists "reserved matters," big decisions like selling the company or taking on major debt, that need investor sign-off no matter what everyone else wants.³

Indian courts have generally upheld both, as long as they're written into the company's Articles of Association and not just sitting in a side agreement. Cases like *IL&FS Trust Co. v. Birla Perucchini* and the *TCS v. Cyrus Investments* dispute get cited a lot for this. That part is settled law. What's not talked about enough is what happens after the ink dries.

HOW CONTROL ACTUALLY SHIFTS

At the seed stage, investors barely have a foot in the door maybe an observer seat, no real vote. The founder is still running the show. By Series A, things change fast. A lead investor usually wants an actual board seat, and the reserved matters list grows to cover budgets, senior hires, and related-party deals. They also often get a say in the next funding round, which quietly takes away some of the founder's control over their own company's future. By Series B/C, there are usually several investor directors, sometimes as many as the founder has. The reserved matters list gets long. At this point it's not about stopping one bad call anymore it's a constant check on almost everything.⁴

By pre-IPO, the board looks more like something the investor group built than something the founder chose. Independent directors get added, partly because SEBI expects it before a listing. A founder who once ran a two-person board might now be one voice among eight. Nobody really spells this out clearly at the term sheet stage. Most founders only realize how much they've given up once they're several rounds deep.

THE NOMINEE DIRECTOR PROBLEM

This is the issue that doesn't get enough attention. Under Section 166 of the Companies Act, a nominee director is legally supposed to act in the company's interest not the investor's. But they're appointed because they represent the investor, report back to their fund, and get judged on how well they protect that stake. When a decision helps the company but hurts the investor

³ Elizabeth Pollman, *The Supreme Court and the Pro-Business Paradox*, 135 Harv. L. Rev. 220, 225 (2021)

⁴ Qubit Capital, *Venture Capital Stages*, <https://qubit.capital/blog/venture-capital-stages>

a down round, the nominee is supposed to vote for the company. In reality, there's real pressure not to. Indian law hasn't cleanly sorted this out, and it's still one of the murkier corners of start-up governance.⁵

FOUNDER LEVERAGE: IS THERE ANY?

Founders can negotiate for things like founder-reserved matters, sunset clauses on investor board rights, caps on board size, and vesting protections. Dual-class shares common in the US are mostly off the table in India, though SEBI has recently allowed a narrow version for some tech IPOs. The honest truth: founder leverage is strongest early and fades with every round.⁶ Compared to the US, where fiduciary duty case law under Delaware does a lot of the heavy lifting, India leans almost entirely on contract drafting meaning founders and investors are largely writing their own rulebook, with a thinner legal safety net.

THREE REAL CASES LAWS

BYJU'S shows rights that existed but arrived too late directors raised concerns, got nowhere, and resigned, leaving the founder's family in charge alone. GoMechanic shows what happens when the board is simply lied to founders admitted to inflating revenue, investors filed a police complaint, and the company sold off cheap.⁷ Zilingo shows rights used exactly as written still ending messily CEO Ankita Bose was suspended and fired following an investigation the board said was authorized jointly by major shareholders, though she disputed the grounds.⁸

⁵ Priya Garg, *The Duties of Nominee Directors Require Greater Clarity*, LiveMint (Aug. 5, 2021), <https://www.livemint.com/opinion/online-views/the-duties-of-nominee-directors-require-greater-clarity-11628093667850.html>

⁶ Alex Lubyansky, *Founder Protective Provisions and Board Rights in VC-Backed Companies*, Acquisition Stars (Apr. 17, 2026), <https://acquisitionstars.com/blog/founder-protective-provisions-board-rights>

⁷ Pranav Mukul, *Peak XV, Orios, Chiratae File EOW Complaint over Financial Irregularities at GoMechanic*, Econ. Times (Aug. 22, 2023), <https://economictimes.indiatimes.com/tech/startups/original-investors-file-eow-complaint-over-financial-irregularities-at-gomechanic/articleshow/102952812.cms>

⁸ Press Trust of India, *Board Jointly Suspended CEO Ankita Bose, Not Individual Investor: Zilingo*, Bus. Standard (May 3, 2022), https://www.business-standard.com/article/companies/board-jointly-suspended-ceo-ankita-bose-not-individual-investor-zilingo-122050200400_1.html

CONCLUSION

However if we go back to that BYJU'S board in mid-2023. On paper, the company had all the usual protections nominee directors, reserved matters, affirmative voting rights. None of it stopped the breakdown between founders and investors. It just gave the investor-side directors a way to walk out once trust was gone.

That's really the point of this piece. Investor control rights in Indian startups aren't fixed once at the term sheet stage they keep expanding with each funding round, run into unresolved legal questions the moment a nominee director's loyalties are tested, and can fail in very different ways depending on whether the real problem is bad information, bad timing, or a genuine disagreement about the facts. It's not accurate to say founders are simply being squeezed out, and it's not accurate to say investors are simply protecting their money either.⁹ Both sides are operating inside a legal framework that hasn't fully caught up with how fast Indian startups have grown and until it does, these disputes will probably keep showing up in boardrooms, in EOW complaints, and occasion.

⁹ Byju's Claims Investors Don't Have Voting Rights on CEO Change, Adds \$200M Rights Issue Is Progressing Well, Outlook Startup, <https://startup.outlookindia.com/sector/ed-tech/byju-s-claims-investors-don-t-have-voting-rights-on-ceo-change-adds-200m-rights-issue-is-progressing-well-news-10440> (last visited Oct. 16, 2026)